

Regulatory Impact Analysis for Amendments to Permit Review Timelines and Definitions pursuant to Session Law 2023-134, Section 12.11(a)-(c)

Rule Citation Number 15A NCAC 02Q .0303, .0304, .0305, .0312, .0503, .0505, .0507, .0515, and .0525

Rule Topic: Air Permitting Review and Issuance Timeline for Permit Modifications

DEQ Division: Division of Air Quality

Agency Contact: Katherine Quinlan, Rule Development Branch Supervisor
Division of Air Quality (DAQ)
(919) 707-8702
Katherine.Quinlan@deq.nc.gov

Analyst: Carrie Pickett, DAQ
(919) 707-8463
Carrie.Pickett@deq.nc.gov

Impact Summary:

State government:	Yes
Local government:	No
Substantial impact:	No
Private Sector:	Yes

Authority: G.S. 143-215.3(a)(1), (1a), (1b), (1d); G.S. 143-215.3A, G.S. 143-215.108

Necessity: To amend the air quality permitting rules to align with the provisions relating to air quality permitting review timelines and definitions pursuant to Session Law 2023-134, Section 12.11(a)-(c).

Contents

I.	Introduction	5
II.	Background	5
III.	Reason for Rule Amendment	6
IV.	Proposed Rules.....	6
V.	Estimating the Fiscal Impacts	10
A.	Existing and New Review Processes for Permit Modifications.....	14
1.	Non-Title V Permit Modifications.....	14
2.	Title V Permit Modifications.....	16
B.	Possible Impacts of S.L. Review Timelines.....	19
1.	Diminished Flexibilities.....	19
2.	Permit Outcomes.....	20
3.	Application Preparation Assistance	22
4.	Application Consolidations and Streamlining	23
VI.	Public Health and Environmental Impacts.....	24
VII.	Rule Alternatives.....	24
VIII.	Cost and Benefit Summary	24

List of Tables

Table 1: Permit Applications Received by Year, 2019-2023	11
Table 2: Calendar Year 2024 Permit Modification Application Fees.....	21
Table 3: North Carolina D4 Labor Market Data.....	23
Table 4: U.S. Bureau of Labor Statistics Wage Data for North Carolina	23

List of Figures

Figure 1: Non-Title V Applications Received by Year, 2019-2023	12
Figure 2: Title V Permit Applications Received by Year, 2019-2023.....	13
Figure 3: Visual Timeline of New Review Procedures for Permit Modifications Reviewed under 03Q .0300 Procedures.....	15
Figure 4: Visual Illustration of Review Process for Title V Minor Modifications under New Session Law Timeframes	17
Figure 5: Visual Illustration of 1-Step Review Process for Title V Significant Modifications under New Session Law Timeframes.....	18
Figure 6: Visual Illustration of 2-Step Review Process for Title V Significant Modifications under New Session Law Timeframes	19

Acronyms

Abbreviation	Term
\$	Dollars
15A NCAC	Title 15A of the North Carolina Administrative Code
40 CFR	Title 40 of the Code of Federal Regulations
AQC	Air Quality Committee
BLS	U.S. Bureau of Labor Statistics, U.S. DOL
DAQ	Division of Air Quality, DEQ
DEQ	Department of Environmental Quality
DOL	U.S. Department of Labor
EMC	Environmental Management Commission
EPA	U.S. Environmental Protection Agency
IBEAM	Internet-Based Enterprise Application Management
G.S.	General Statute
NAAQS	National Ambient Air Quality Standard
NAICS	North American Industry Classification System
NC	North Carolina
NSR	New Source Review
PSD	Prevention of Significant Deterioration
SIP	State Implementation Plan
S.L.	Session Law

I. Introduction

When the North Carolina legislature passed the 2023 Appropriations Act, Session Law (S.L. 2023-134)¹ requiring the implementation of specific time periods for review of certain permit applications by the Division of Air Quality (DAQ), rulemaking was initiated to ensure the Division’s processes for review of permit applications remains consistent with all applicable state and federal requirements. S.L. 2023-134, Section 12.11 was later amended by S.L. 2024-1, Section 4.13 to: require submission of these air program changes to the U.S. Environmental Protection Agency (EPA) through a State Implementation Plan (SIP) amendment by July 1, 2025; and retroactively delay the effective date of S.L. 2023-134, Section 12.11 provisions until the first of a month that is 60 days after the Department of Environmental Quality (DEQ) Secretary certifies to the Revisor of Statutes that the EPA has approved the program changes into North Carolina’s SIP.²

The purpose of this document is to provide an analysis of the fiscal impacts associated with the proposed rule revisions to implement S.L. 2023-134, Section 12.11(a)-(c), as amended by S.L. 2024-1, Section 4.13.

II. Background

The changes to permitting requirements reflected in S.L. 2023-134, Section 12.11(a)-(c) were part of the 2023 Appropriations Act for North Carolina passed in October 2023. Section 12.11(a) of the S.L. revises **G.S. § 143-215.108 Control of sources of air pollution; permits required**, Subparagraph (d)(2), where new timelines for permit reviews were created specifically for permit modification applications. This relates to all permit modifications, stating “Title V and other permits” within the language of Subparagraph (d)(2). Further, the S.L. language specifies maximum time periods allotted for DAQ staff to review and process these permit modifications; where there will be 90 calendar days allotted for review of a minor permit modification application, and 270 calendar days allotted for a major permit modification application review. These timelines are calculated from the time that an administratively complete application is received by the Division, through the date that the Division issues the permit, denies the permit, or publishes the permit for public notice and comment.

Since the review timelines under S.L. 2023-134, Section 12.11(a) only impact permit modifications, the review processes for all other types of permit actions (initial/new permits, renewals, administrative amendments, ownership changes, etc.) remain unchanged. Therefore, the rule revisions in this action clarify the distinction between “processing days” and calendar days. Currently, the Division’s permit review timelines are based on “processing days,” which means that the days during which the Division is waiting to receive information that has been requested from the applicant are not counted.

Section 12.11(b)-(c) of S.L. 2023-134 modifies **G.S. § 143-213, Definitions**, by creating a new subdivision (1a) which adds into the definitions list the term “administratively complete” with an

¹ S.L. 2023-134, Section 12.11(a)-(c), available at: <https://www.ncleg.gov/Sessions/2023/Bills/House/PDF/H259v7.pdf>.

² S.L. 2024-1, Section 4.13, available at: <https://www.ncleg.gov/EnactedLegislation/SessionLaws/HTML/2023-2024/SL2024-1.html>

accompanying definition. This term means “that all information required by statute, regulation, or application form has been submitted to the Department for the purpose of processing a permit application.” Once an application has been submitted to the Division with all components necessary to be deemed “administratively complete,” the time period the Division staff are allotted for review of the permit modification application begins. Because this term and the newly created time periods for permit modification reviews are closely related, this rulemaking action will address both.

III. Reason for Rule Amendment

N.C.G.S. 143-215.108(d)(2), as amended by the 2023 Appropriations Act, S.L. 2023-134, requires the Environmental Management Commission (EMC) to adopt rules specifying the times within which it must act upon applications for permits, and those rules must establish the 90- and 270-calendar day timeframes for permit modifications as described in Section II of this document. Therefore, the DAQ is conducting this rulemaking to incorporate the new review time periods for administratively complete permit modification applications into Subchapter 02Q, Air Quality Permit Procedures.

As amended by S.L. 2024-1, the provisions of Section 12.11 of S.L. 2023-134 do not become effective until the first day of a month that is 60 days after the DEQ Secretary certifies to the Revisor of Statutes that the U.S. EPA has approved an amendment to the NC SIP, and the DEQ is required to submit that SIP revision to the EPA no later than July 1, 2025.

IV. Proposed Rules

The rules proposed for amendment include 15A NCAC 02Q .0303, .0304, .0305 .0312, .0503, .0505, .0507, .0515, and .0525. This group of existing rules are utilized by the DAQ in processing permit modification applications. The proposed amendments to these rules are limited in scope to the minimally necessary changes so that the permitting rules conform to the new statutory permit processing time limits for permit modification reviews, including revisions to ensure consistent terminology is used to describe the various steps of the permit application review process.

15A NCAC 02Q .0303, Definitions

Rule 02Q .0303 is proposed to include a definition for the term “complete application”. The proposed definition incorporates the term “administratively complete,” as defined in G.S. 143-213, and language to align it with the equivalent definition of this term in Rule 02Q .0503 by specifying that a complete application is one that provides all information necessary to determine compliance with all applicable federal and State requirements.

15A NCAC 02Q .0304, Applications, and 15A NCAC 02Q .0305, Application Submittal Content

Clarifying amendments are proposed for Rules 02Q .0304 and .0305, to clearly indicate the required application elements needed for an application to be accepted for processing. If an application does not contain these minimum elements, it will not be accepted for processing by the Division.

15A NCAC 02Q .0312, *Application Processing Schedule*

Rule 02Q .0312 specifies the steps of the permit review process for applications reviewed under the 02Q .0300 rules.

Revisions are proposed to Paragraph (a) to specify that the procedures of Paragraph (a) only apply to applications for new permits and permit renewals, but not to permit modifications except as specified in new Paragraph (b). Additional revisions within Paragraph (a) include:

- Revisions to Part (a)(1)(A) to clarify the first step of the permit review process, or the Acknowledgement/Acceptance step. During this step, the Division provides an acknowledgement letter to the applicant within 10 days of receiving the application. This 10-day acknowledgement letter serves to: 1) acknowledge receipt of the application by the DAQ; and 2) state if the application is accepted for processing. If the application is not accepted for processing, the acknowledgement letter indicates the missing items from Rule 02Q .0305 needed for the application to be accepted.
- Revisions to Part (a)(1)(B) to clarify the second step of the permit review process, or the Completeness Determination step. During this step, the Division reviews the application to determine if it is complete (pursuant to the definition added to Rule 02Q .0303). The Division has 45 processing days to notify the applicant that their application is complete or to request additional information to make the application complete.
- Current Part (a)(1)(C) is proposed to be deleted since this language did not specify any action or notification from the Division.
- Minor clarifying revisions are proposed for the final step(s) of the permit review process, which includes final action and/or public notice, under current Parts (a)(1)(D)-(F) of the Rule (relettered as Parts (a)(1)(C)-(E)).
- Revisions are proposed to Subparagraph (a)(3) that parallel those made in Subparagraph (a)(1), except that the procedures allow 60 processing days for the completeness determination step in Part (a)(3)(B).

Existing Paragraph (b) is proposed to be part of Paragraph (a) to clarify that the timelines in Paragraph (a) are counted as processing days (i.e., the time that the DAQ is waiting on requested information from the applicant is not counted towards the timelines).

New Paragraph (b) is proposed to outline the processing steps and timelines for reviewing permit modifications under the 02Q .0300 procedures.

- The procedure and timeline for the first step of the review process (Acknowledgement/Acceptance) is the same as that for new permits and permit renewals, so new Subparagraph (b)(1) cross references Parts (a)(1)(A) and (a)(3)(A), as appropriate.
- The procedure and timeline for the second step of the review process (Completeness Determination) is the same as that for new permits and permit renewals, so new Subparagraph (b)(2) cross references Parts (a)(1)(B) and (a)(3)(B), as applicable.

- New Subparagraph (b)(3) establishes the minor modification review timeline pursuant to S.L. 2023-134, Section 12.11(a), as follows:
 - For permits that do not require public notice and comment, new Part (b)(3)(A) requires the DAQ Director to issue or deny the permit modification within 90 calendar days of receiving a complete application.
 - For permits that are required to go to public notice with an opportunity to request a public hearing, new Part (b)(3)(B) requires the DAQ Director to publish the draft permit for public notice within 90 calendar days of receipt of a complete application, and take final action on the permit within the timelines specified for new and renewed permits in Subparts (a)(1)(D)(ii) or (a)(3)(C)(ii).
- The procedure and timeline for draft permit modifications required to go to public hearing remains unchanged from those for new and renewed permits, so new Subparagraph (b)(6) cross references Parts (a)(1)(E) and (a)(3)(D), as applicable.

15A NCAC 02Q .0503, *Definitions*

Rule 02Q .0503 is proposed for modification to update the definition of “complete application” to include a cross-reference to the definition of “administratively complete” in G.S. 143-213 pursuant to S.L. 2023-134, Section 12.11(b)-(c).

15A NCAC 02Q .0505, *Application Submittal Content*

Minor clarifying language changes are proposed for Rule 02Q .0505, which serves to specify the minimum application elements needed for an application to be accepted by the Division for processing. Specifically, Subparts (1)(b) and (c) were consolidated, since only one of these zoning-related demonstrations would be needed for any particular application. Subpart (1)(e) (relettered as Subpart (1)(d)) was clarified to specify that the reference to Rule 02Q .0507(a) pertains to the submission of applications, which must be signed as required by Rule 02Q .0520. Item (2), which pertains to renewal applications, was revised to remove the language “as required pursuant to 15A NCAC 02Q .0507(a),” since the language of Rule 02Q .0507(a) specifically excludes renewals. Finally, minor changes were made to Item (5) to clarify the types of “minor changes” classified under this Item.

15A NCAC 02Q .0507, *Application*

The amendments to Rule 02Q .0507 include a change to Paragraphs (d) and (h). Specifically, the language of Paragraph (d) was revised for clarification, to avoid the unintended possible interpretation that the information listed in Subparagraphs (d)(1)-(3) are in addition to a complete application. Rather, these are components of an application package that are required in order for the application to be accepted by the Division for processing, as already specified in 15A NCAC 02Q .0505. The revisions to Paragraph (h) include one cross-reference correction and removal of the language regarding receipt of the permit application processing fee since it is redundant of language elsewhere in the rules (e.g., 02Q .0505, 02Q .0206) and the application fee is needed for the application to be accepted (which is prior to the completeness determination).

15A NCAC 02Q .0515, *Minor Permit Modification*

Rule 02Q .0515 sets forth the requirements for Title V minor permit modifications, including what types of changes at a Title V facility qualify for a minor permit modification (and the types of changes that do not qualify), the elements required to be submitted with the minor permit modification application, procedures for group processing of Title V minor modifications, and the implications of a minor modification on the permit shield. The existing provisions of this Rule closely resemble the EPA's regulations for Title V minor permit modifications in 40 CFR Part 70. The DAQ is proposing the following changes to this Rule to satisfy the requirements of G.S. 143-215.108 pursuant to S.L. 2023-134, Section 12.11(a), while remaining in alignment with EPA's Title V regulations:

- Revision of the word "shall" to "may" in Paragraph (c), since the DAQ is not required to use group processing procedures.
- Revisions to Paragraph (d) to specify that the DAQ shall take action on the minor permit modification within 90 calendar days of receiving the application, except that the modified permit shall become effective 60 days after the issuance date (i.e., 15 days after the end of EPA's 45-day review period) unless EPA objects in writing to issuance of the modified permit as proposed.
- The scenario captured under existing Subparagraph (d)(4), which would apply if EPA objects to the DAQ's proposed modified permit, has been moved to become new Paragraph (e). This event occurs outside of the 90-day window, where 40 CFR Part 70 requires the DAQ to respond to the EPA's objection and transmit a revised proposed permit to EPA within 15 days of receiving EPA's objection.
- Existing Paragraph (e) is proposed to be deleted, since the only difference between Paragraphs (d) and (e) were the 90-day and 180-day timelines. With the S.L. now requiring all minor modifications to be issued, denied, or sent to public notice within 90 calendar days, the language of existing Paragraph (e) becomes obsolete.
- Clarifying revisions are proposed to the language of existing Paragraph (f) since completeness determinations are not required for Title V minor modifications, as specified in 15A NCAC 02Q .0525.

15A NCAC 02Q .0525, *Application Processing Schedule*

Rule 02Q .0525 has been reformatted throughout and is proposed with the following changes:

- Subparagraph (a)(1) contains proposed revisions to clarify the first step of the application review process (Acknowledgement/Acceptance) and add cross-references to the rules that specify the minimum criteria for application acceptance (02Q .0505 and .0507).
- Subparagraph (a)(2) contains proposed revisions to clarify the second step of the application review process (Completeness Determination), which takes place within the first 60 processing days of receiving the application, and to clarify that the completeness determination provisions in Parts (a)(2)(A)-(D) do not apply to minor modifications pursuant to Rule 02Q .0515.
- Current Item (3) of the Rule has been moved to the beginning of new Subparagraph (b)(2).

- Current Items (4)-(6) of the Rule have been moved to the end of the Rule, and now appear as Paragraphs (c)-(e).
- Existing language from within Subparagraph (a)(2) is moved to become new Subparagraph (a)(3) and modified to clarify that the completeness determination provisions of Subparagraph (a)(2) do not apply to Title V minor modifications.
- Existing language from within Subparagraph (a)(2) is moved to become new Subparagraph (a)(4) and contains minor revisions for clarity.
- New Paragraph (b) has been added to the Rule to specify the timelines for processing permit revisions. Subparagraph (b)(1) cross references the processing procedures outlined in Rule 02D .0515(d) and (e) (as described above), which contains the S.L. requirement to process Title V minor modifications within 90 calendar days of receipt of a complete application. Subparagraph (b)(2) contains the S.L. requirement to process Title V significant modifications within 270 calendar days of receipt of a complete application. Subparagraph (b)(3) specifies that all other types of Title V permit revisions, the application review shall be conducted pursuant to Rule 02Q .0514 or .0517, as applicable.

V. Estimating the Fiscal Impacts

A qualitative approach describing the potential impacts was taken in analyzing this rulemaking. Because of the nature of the proposed changes, there is no definitive financial impact as the variables are market dependent and uncertain. This analysis qualitatively characterizes potential impacts to state government and the private sector regulated community.

As described in Section II of this analysis, permit modifications are only one type of the various permit applications the DAQ receives, and these permit applications are reviewed by DAQ central office and regional office engineering staff and supervisors.

While the total number of permit modification applications has fluctuated in the past five years, the DAQ has seen an overall increase in the total number of permit applications each year, as shown in Table 1 below.

Table 1: Permit Applications Received by Year, 2019-2023

Applications Received by Year, 2019-2023							
Permit Class	Application Type	2019	2020	2021	2022	2023	Average Annually
non-Title V	Modification	94	81	87	77	52	78.2
non-Title V	New/Initial	29	19	24	27	35	26.8
non-Title V	Renewal/Modification	0	3	8	9	18	7.6
non-Title V	Renewal	2	3	188	249	268	142
non-Title V	Other	85	109	93	106	74	93.4
Total non-Title V		210	215	400	468	447	348
Title V	Minor Modification	29	20	34	36	29	29.6
Title V	TV-Reopen for Cause	1	2	7	0	1	2.2
Title V	Significant Modifications	56	54	42	43	32	45.4
Title V	Modification - State Only	4	4	8	6	4	5.2
Title V	New/Initial	12	25	18	21	14	18
Title V	Renewal/Modification	3	4	7	3	3	4
Title V	Renewal	39	49	50	45	43	45.2
Title V	Other	39	36	42	37	59	42.6
Total Title V		183	194	208	191	185	192.2
Total Modifications (Title V + non-Title V)		186	163	178	165	120	162.4
Total Applications		393	409	608	659	632	540.2

The data of Table 1 above is also provided as percentages in Figures 1 and 2 below. These figures show the breakdown of permit application types received by the Division each year from 2019 through 2023 for Title V and non-Title V permit classes, respectively. The application types are grouped into modifications, new/initial permits, renewals, combined renewal/modifications, and “other,” which includes administrative amendments, ownership changes, name changes, Clean Air Act Section 502(b)(10) changes, construction notifications, changes not requiring permit revisions, and permit rescissions.

As seen in Figure 1, non-Title V permit modifications have comprised approximately 12-45% of the total non-Title V permit applications received annually.

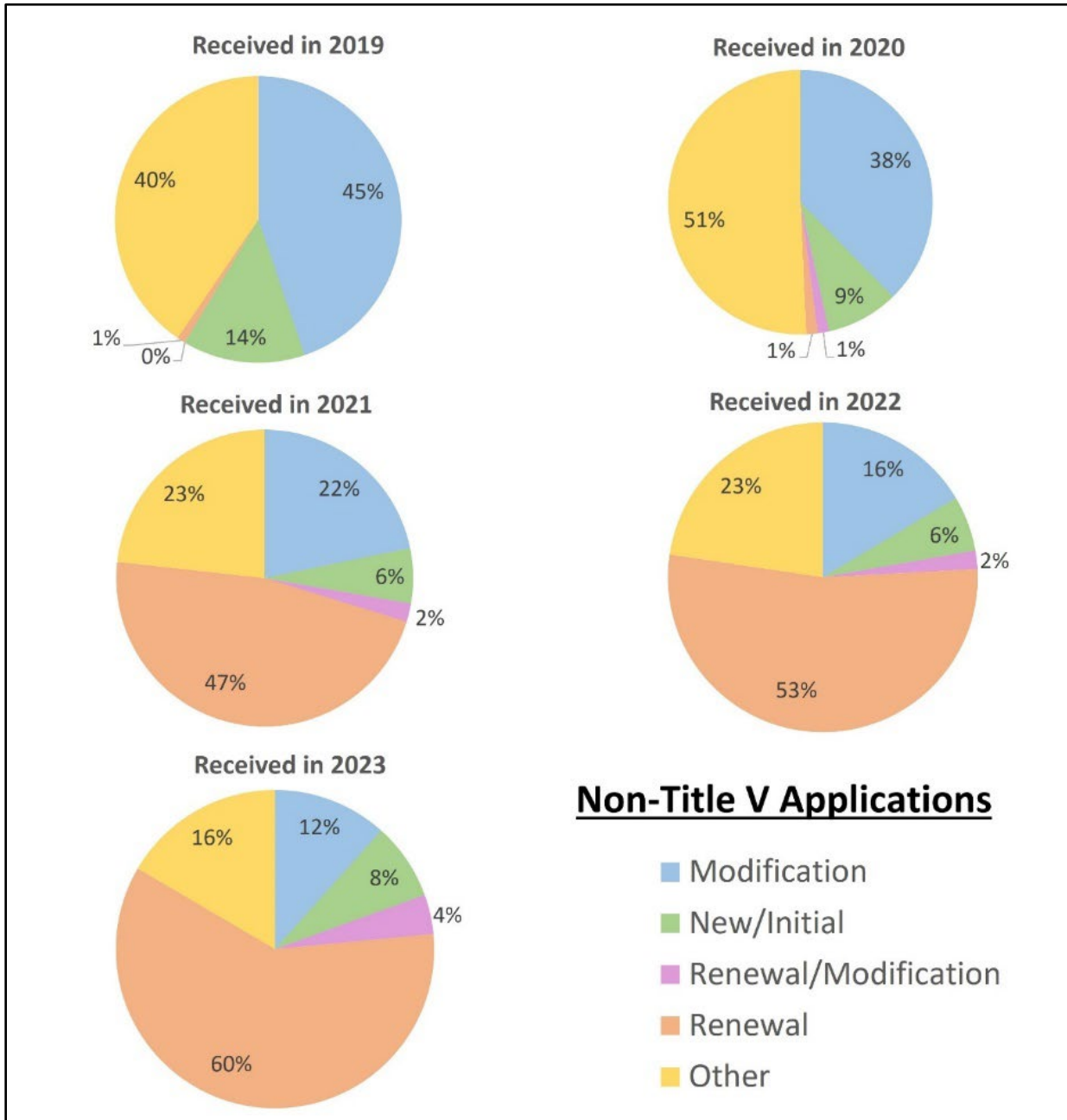


Figure 1: Non-Title V Applications Received by Year, 2019-2023

For Title V permits, there are various types of modification applications, including minor modifications, significant modifications, and modifications that only involve revisions to the state-enforceable only part of the permit. Figure 2 below shows the approximate breakdown of the different types of Title V permit applications received by the Division each year, including each type of Title V permit modification. As seen in Figure 2, Title V permit modifications (minor, significant, and state-only) have comprised approximately 35-49% of the total Title V permit applications received annually.

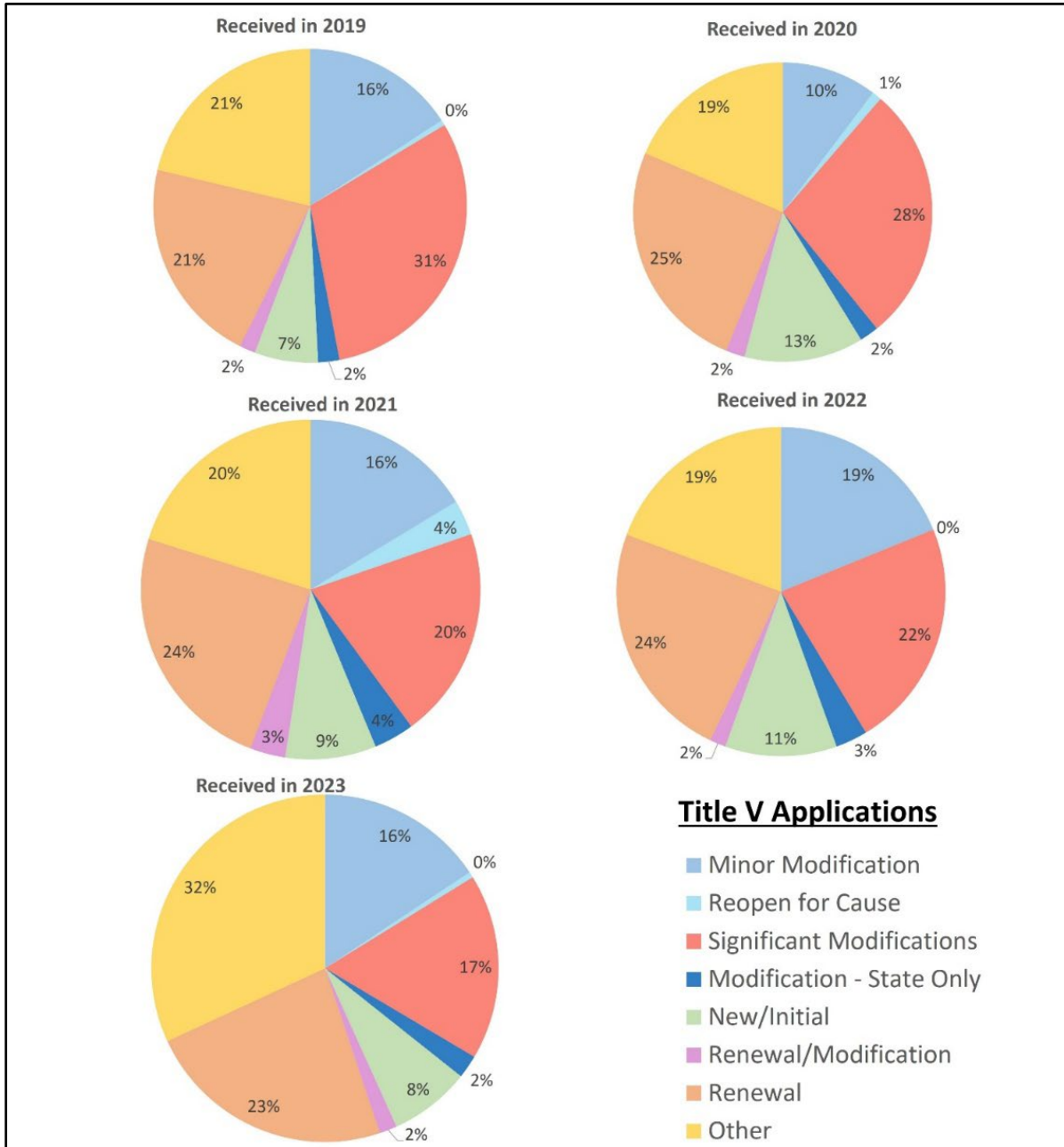


Figure 2: Title V Permit Applications Received by Year, 2019-2023

Currently, the State’s air quality rules specify that all non-Title V permit modifications shall be reviewed within a timeframe of 90 processing days, and all significant modifications shall be reviewed within 270 processing days. Permits issued under the provisions of the rules in 02Q .0300, or “Construction and Operation Permits,” provide the applicant with permission to begin construction of their facility or modification. Title V permits issued under the provisions of the rules in 02Q .0500, or “Operating Permits,” are permits for larger facilities and list all applicable requirements for a facility (including state rules, federal regulations, and associated monitoring and recordkeeping to ensure compliance with all applicable standards). *Generally*, a Title V facility does not need to wait for issuance of their Title V Operating Permit pursuant to 02Q .0500 before beginning operation, as long as the facility has first obtained a construction and modification permit pursuant to 02Q .0300; however, some types of Title V modifications require the facility to file the permit application before beginning operation of the modification. Additionally, an applicant that chooses the Title V 1-Step significant modification process pursuant to 15A NCAC 02Q .0501(b)(1) or (c)(1) may not begin construction or make the modification until the modified permit has been issued.

The current process tracks the number of “processing” days, so this will change to calendar days for modification applications, as specified in the new statutory requirements, while all other application types remain on a “processing day” schedule. Processing days are tracked using Internet-Based Enterprise Application Management (IBEAM) to ensure program effectiveness, where the days during which DAQ staff are waiting on information from the applicant are not counted towards the review timelines. This system is known as “clock pausing,” where the review clock stopped when information requests were communicated to the applicant, and resumed again when that information was received. The remainder of this Section goes into more detail about the Division’s current review timelines and procedures for permit modifications, identifies the changes to those practices upon implementation of the new S.L. review timelines, and describes the plausible impacts that may result from these procedural changes.

A. Existing and New Review Processes for Permit Modifications

This Subsection outlines the current and new review process for the various types of non-Title V and Title V permit modifications.

1. Non-Title V Permit Modifications

Permit modification applications for non-Title V facilities are processed under the 02Q .0300 Section of North Carolina’s air quality rules, where rule 02Q .0312 specifically details the process milestones and timelines for review of all applications processed under the 02Q .0300 Rules. Currently, the review steps for permit modifications processed under the 02Q .0300 procedures are as follows:

- Step 1 (Application Acknowledgement): within 10 days of receiving an application, the Division notifies the applicant that their application has been received, and whether the application has been accepted for processing.
- Step 2 (Application Completeness): following application acceptance, the DAQ reviews the application and notifies the applicant if additional information is needed to make the application complete, with a deadline specified for receiving any requested information.

The review clock is paused for any time that the DAQ is waiting for information from an applicant. Within 45 days of receiving an application, the Division shall notify the applicant if the application is complete. Once all information is received to make the application complete, the 90-processing-day review clock resets.

- Step 3 (Technical Completeness): within 45 days of receipt of a complete application (under step 2), the DAQ determines if the application is technically complete. The DAQ requests any additional information needed to conduct the technical review of the application. The review clock is paused for any time that the DAQ is waiting for information from an applicant.
- Step 4 (Agency Action): the DAQ makes a decision on the permit application. If the permit is not required to go to public notice or hearing, the Division must either issue or deny the permit within 90 processing days of receipt of a complete application, or within 10 days of receipt of requested additional information, whichever is later. If the permit is required to go to public notice, the Division must send the draft permit to public notice within 90 processing days of receipt of a complete application and take final action on the permit within 30 days after the close of the public comment period. If the draft permit is required to go to public hearing, the Division must send the draft permit to public hearing within 45 days of approving the request for a public hearing and take final action on the permit within 30 days after close of the public hearing.

Note: under the current practices and rule language, the timelines specified above are counted in terms of “processing days,” so any time that the DAQ is waiting on information from the applicant is not counted towards the timelines (i.e., the review clock is paused).

As described in Section IV of this document, Rule 02Q .0312 is proposed for amendment to reflect the new processing timeline of 90 calendar days, which begins once the DAQ has received all materials and information for the application to be deemed complete. This new procedure is illustrated in the visual depiction of the proposed permit modification process below in Figure 3.

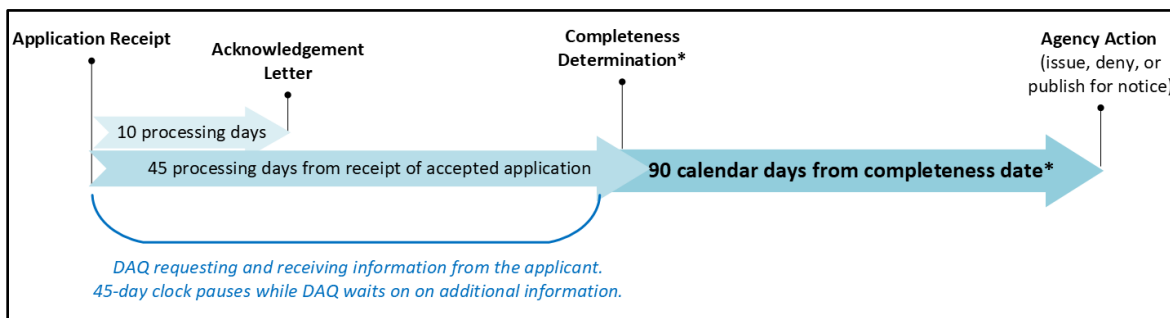


Figure 3: Visual Timeline of New Review Procedures for Permit Modifications Reviewed under 03Q .0300 Procedures

Under the new 02Q .0300 modification review procedures, Step 1 (Application Acknowledgement/Acceptance), which remains unchanged, is merged with a combined “Completeness Determination,” that is intended to cover both the Application Completeness in current Step 2 and the Technical Completeness in current Step 3, which then triggers the timeline

for Agency Action under Step 4. Once the DAQ receives an application the date is recorded and stored within DAQ's IBEAM system. Consistent with the current Step 1 procedures described above, an acknowledgement letter is processed and sent to the applicant within 10 days of the DAQ receiving the application. The acknowledgement letter indicates that the application was received, and whether the application is accepted for processing (i.e., contains the minimum elements for acceptance in 02Q .0305, including the application fee) or if additional items are needed for the application to be accepted. During the initial 45 days of the review, if the application originally submitted was not complete, the staff engineer will request the necessary information to make the application complete. During this step of the review, the 45-day clock to determine the application as complete is counted as 45 processing days (i.e., the time that the agency is waiting on information that has been requested from an applicant is not counted). Once the application has been determined as complete, the period of time from application completion (i.e., the date that the latest information was received, which made the application complete) to the Agency Action shall not exceed 90 calendar days, pursuant to the new statutory requirements. If the permit engineer determines, subsequent to making a completeness determination, that additional information is needed to properly evaluate the source, such information can still be requested, but the review clock will not pause while the DAQ awaits that information. The Agency Action that must be taken within the new statutory timelines can include issuance of the modified permit, denial of the modified permit, or publication of the draft modified permit for public notice and comment.

Most non-Title V permit modification applications are closed out within the current 90-processing-day timeframe. However, as the new process will require a combination of processing days and calendar days in the overall timeframe, it is difficult to identify any specific impact resulting from the current proposed rulemaking except for limiting the flexibility currently afforded to a few applicants whose circumstances require longer processing time, as further explained in Subsection V.B.A of this document.

2. Title V Permit Modifications

Title V permits are issued under the procedures of the rules in 02Q .0500. For Title V facility permits, there are two main types of modifications: minor modifications and significant modifications. For significant modifications of a Title V permit, whether the modification contravenes an existing permit term or condition dictates which processing schedule is available for the applicant to choose (i.e., for the application to be processed under a one-step process pursuant to 15A NCAC 02Q .0501(b)(1) or (c)(1), or under a two-step process pursuant to 15A NCAC 02Q .0501(b)(2) or (c)(2)). This subsection describes the effect of the S.L. provisions on the review timelines for each of these types of Title V modifications.

Title V Minor Modifications

Pursuant to 40 CFR Part 70, the requirements for Title V permit minor modifications are established in Rule 02Q .0515, with existing Paragraph (f) specifying that the permit applicant may make the change proposed in their minor permit modification application immediately after filing the completed application with the Division (subject to the other conditions specified in the Rule). Due to this nuance, applications for Title V minor modification are assumed, by default, to be

complete upon submittal. Therefore, the 90-calendar-day review clock of S.L. 2023-134 begins upon application receipt for Title V permit minor modifications. Additionally, a completeness determination is not required for Title V permit minor modifications, pursuant to 40 CFR 70.7(a)(4). In practice, the Division acknowledges the receipt of a minor modification within 10 days of its receipt, noting whether the minimum required elements have been received. If elements are missing, the 90-day processing clock does not begin. Figure 4 below shows a visual illustration of the review timeline for these types of Title V permit modifications.

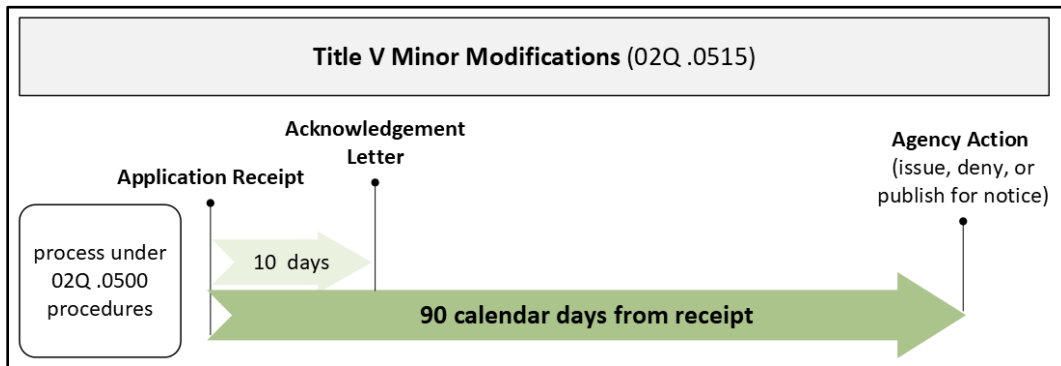


Figure 4: Visual Illustration of Review Process for Title V Minor Modifications under New Session Law Timeframes

As with the other types of permit modifications, if the permit engineer determines that additional information is needed to properly evaluate the source, such information can be requested at any point during the application review process, but the review clock will not pause while the DAQ awaits that information.

Title V Significant Modifications

As described above, there are two different potential processes for review and issuance of a significant modification to a Title V permit: a 1-Step process under 15A NCAC 02Q .0501(b)(1) or (c)(1), or a 2-Step process under 15A NCAC 02Q .0501(b)(2) or (c)(2). Each of these processes is described below.

1-Step Significant Modifications:

Under the 1-step process, the applicant is issued a construction and operation permit in one step that is conducted under the provisions of 02Q .0516. Currently, the Division provides an Acknowledgement/Acceptance letter to a permit applicant within 10 days of receiving a Title V permit significant modification application, which indicates whether the application contains the minimum elements in 02Q .0505 and .0507 to be accepted for processing. Within the first 60 days of the application review, the DAQ reviews the application for completeness, and requests any missing information from the applicant. The review clock pauses during any time that the DAQ permit engineer is waiting on information that has been requested. Under the new S.L. review timelines, once the application is complete, the DAQ must take action on the modification application (issue, deny, or publish for public notice and comment) within 270 calendar days. If the permit engineer determines, subsequent to making a completeness determination, that additional

information is needed to properly evaluate the source, such information can still be requested, but the review clock will not pause while the DAQ awaits that information.

Figure 5 below provides an illustration of the new review process for 1-Step significant modifications of Title V permits.

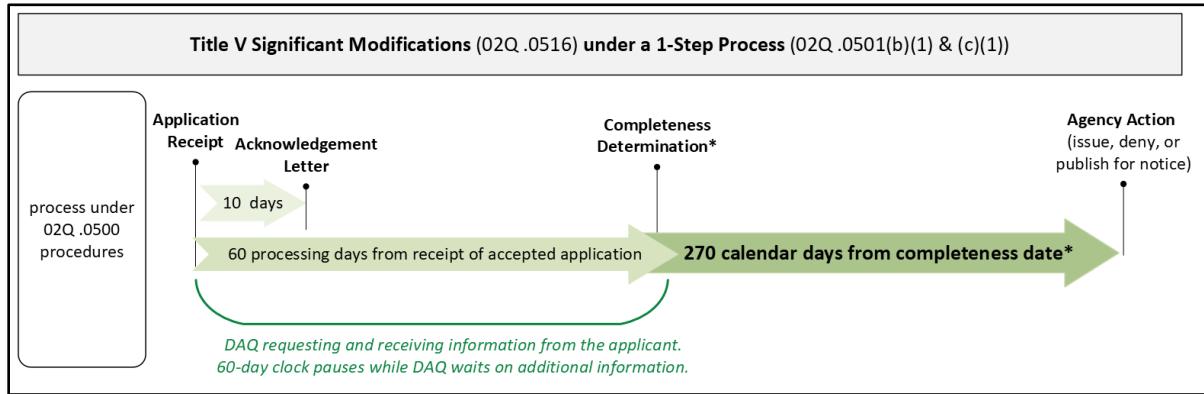


Figure 5: Visual Illustration of 1-Step Review Process for Title V Significant Modifications under New Session Law Timeframes

2-Step Significant Modifications

Under the 2-Step process, the applicant first applies for and obtains a construction and operation permit under the 02Q .0300 procedures (1st step), and subsequently submits an application to modify the construction and operation permit to meet Title V requirements under 02Q .0500 (i.e., the construction and operation permit is incorporated into the Title V permit). If this is a “first-time” Title V permit, the 2nd step application must be submitted within 12 months of becoming subject to the Title V program. Otherwise, the 2nd step application must be submitted within 12 months of beginning operation of the modified source, unless the significant modification would contravene or conflict with a condition in the existing Title V permit, in which case the 2nd step application must be submitted before beginning operation of the modified source.

After implementation of the new S.L. review timelines for permit modifications, the 1st step of a 2-Step significant modification application would adhere to the procedures described in Subsection V.A.1 for non-Title V permit modifications (i.e., agency action within 90 calendar days of receipt of a complete application), and the 2nd step would adhere to the procedures described in this Subsection for 1-Step significant modifications (i.e., agency action within 270 calendar days of receipt of a complete application).

Figure 6 below provides an illustration of the review procedures and milestones for 2-Step significant modifications of Title V permits upon implementation of the S.L. review timelines.

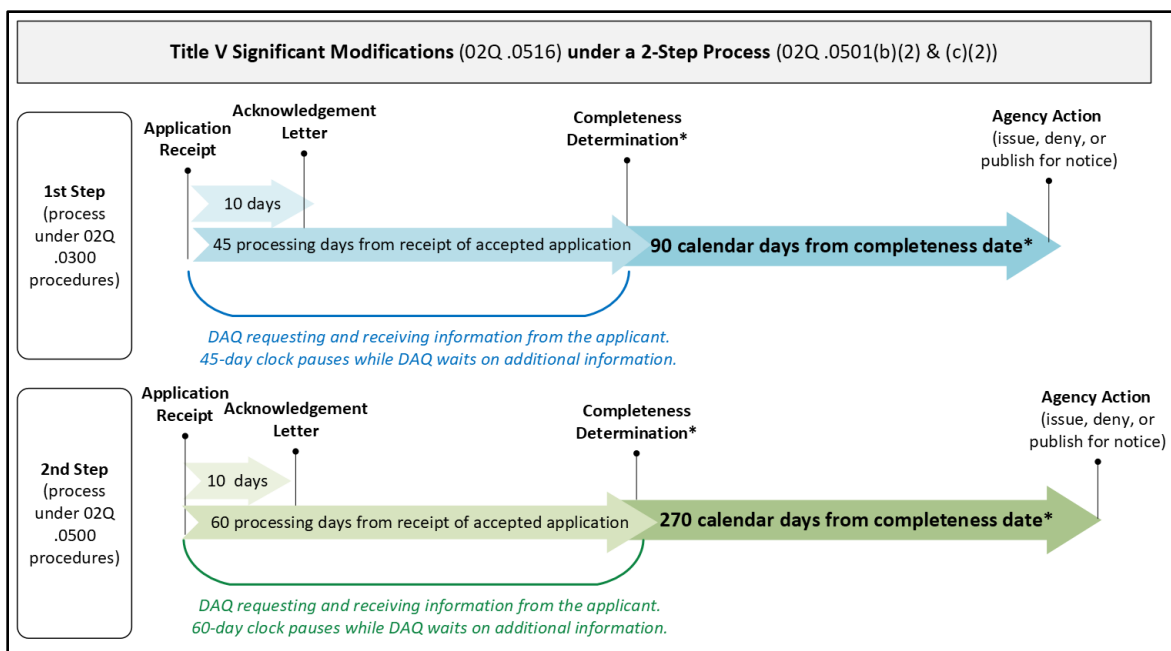


Figure 6: Visual Illustration of 2-Step Review Process for Title V Significant Modifications under New Session Law Timeframes

B. Possible Impacts of S.L. Review Timelines

As further described in this Subsection, the possible impacts that may result as the Division adjusts its permitting practices to conform to the new S.L. review timelines include diminished flexibilities for review engineers and permit applicants throughout the review process, potential changes in permit outcomes, applicants choosing to hire environmental consultants, and limitations on the Division’s ability to consolidate renewal and modification applications for overall streamlining. Despite these possible impacts, there is no anticipated quantifiable change in costs or savings to the State, regulated community, or local government.

1. Diminished Flexibilities

While some permit applicants may not notice any difference in service or issuance timelines for their applications, facilities that previously benefited from a more flexible process timeline may experience changes to the permit review process as the DAQ adjusts its permitting practices to meet the new statutory timelines. The DAQ processes most modification applications within the current time frames established in the rules; however, as described previously in this document, the current timelines allow the review clock to pause while the DAQ is waiting on information from an applicant at any point during the application review. This allows the DAQ to be flexible with applicants, such as allowing extensions of deadlines for applicants that need more time to provide requested information. Currently, DAQ permit staff can also provide a lot of one-on-one guidance to applicants that may be less familiar with the permitting process, because the flexibility in review timelines allows staff to balance their workload to best serve the regulated community. Under the new timelines, the review clock can no longer be paused after an application has been determined

as complete, so permit staff may need to re-prioritize their workload to ensure that a comprehensive review is completed as early as possible after receiving the application. While the DAQ will always strive to provide excellent customer support to all stakeholders, this could limit the amount of time that DAQ permitting staff can allocate towards assisting any particular applicant that may need extra guidance and support throughout the process.

Under the proposed rulemaking the reviewing engineer may still identify and request any missing information at any point during the review process; however, for requests made after an application has been determined as “complete,” the review clock will not pause while the applicant is gathering the requested information. Therefore, there will no longer be a pause applied to the processing periods once an application is deemed as complete. Additionally, applicants contacting the DAQ to build upon the original scope of the permit modification application may no longer be afforded that flexibility due to the review engineer’s more limited timeframes.

2. Permit Outcomes

As described in the previous subsection, DAQ permitting staff sometimes provide a significant amount of assistance to these applicants, made possible by the flexibility afforded in the current review process scheduling, which allows the permit review clock to pause while applicants gather information or make corrections to their applications. With this flexibility, applicants avoid having to withdraw and resubmit applications. Under the new more restrictive time periods, this level of customer service may be hindered. This has the potential to impact the overall permit modification outcomes.

For example, under the current process, the DAQ is likely to grant an extension to an applicant needing additional time to gather information that has been requested by the DAQ permit engineer, because this additional time is not counted against the DAQ’s review clock and therefore will not hinder the Division’s ability to meet its current review schedules. Under the new S.L. processing timeframes, the DAQ may be limited in its flexibility with deadlines on requests for additional information, particularly requests that may occur after a completeness determination has been made (i.e., more than 45 processing days into the application review). These instances may arise when additional information comes to light after further investigating detailed aspects of the application, or if a new or revised federal regulation is published after the application is determined complete, thus triggering the need for a demonstration of how the facility will comply with the new regulations. Other circumstances include a change in federal standard (i.e., a primary national ambient air quality standard (NAAQS) value), legislative action that affects the permitting process, or a state rule revision that becomes effective during the course of the permit review process. At this stage, if the Division does not have the information needed to properly evaluate the source and issue the permit modification, an applicant needing more time to gather the requested information may need to withdraw their application and resubmit at a later date.

Pursuant to 15A NCAC 02Q .0206(d), permit application fees are non-refundable; therefore, any applicant that withdraws and resubmits their application would incur an additional cost in the amount of the permit application fee. Permit application fees vary based on the type of application, as specified in 15A NCAC 02Q .0203(d). As some types of permit fees are adjusted for inflation

each year, while others are not adjusted for inflation, the Division publishes the current fees each year on the Division’s website: <https://www.deq.nc.gov/about/divisions/air-quality/air-quality-permitting/modifying-or-applying-air-quality-permit>. Non-Title V permit modification application fees are not currently adjusted for inflation and are: \$50 for a small facility permit and \$400 for a synthetic minor facility permit. Title V permit fees are adjusted for inflation pursuant to 15A NCAC 02Q .0204, and the 2024 modification application fees for these permits are: \$3,508 for a 02Q .0300 or minor modification; \$8,186 for a significant modification; \$18,279 for a Title V modification triggering Prevention of Significant Deterioration (PSD) or nonattainment new source review (NSR); and \$35,551 for a Title V permit modification triggering both PSD and nonattainment NSR. These fees are summarized in Table 2 below.

Table 2: Calendar Year 2024 Permit Modification Application Fees

Facility Category	New or Modification	02Q .0300 or Minor Modification	Significant Modification
Title V	-	\$3,508	\$8,186
Title V (PSD or Nonattainment NSR)	\$18,279	-	-
Title V (PSD and Nonattainment NSR)	\$35,551	-	-
Synthetic Minor	\$400	-	-
Small	\$50	-	-

As stated above, applicants that withdraw and resubmit their applications may experience an increased cost in the amount of their applicable permit fee, as listed in Table 2. However, the number of applicants that may be affected by potential outcome cannot be reasonably predicted at this time, as it is highly depended on a variety of factors, including the quality of applications upon receipt, quality of responses to the DAQ’s requests for additional information throughout the review process, and the overall workload of the DAQ permitting staff (which can impact the amount of time a permit engineer can dedicate to reviewing a permit application immediately upon receipt).

For context, the DAQ reviewed the distribution of permit modification applications received each year from 2019 through 2023, which showed that the vast majority are issued, with most of the remainder being consolidated. A minority of applications are withdrawn by applicants, no permit modification applications have been denied during this time period. This potential impact is unpredictable and unquantifiable, as it depends on many variables, specifically the quality of a permit application upon receipt. Beyond containing the minimum elements needed for processing an application as identified in Rules 02Q .0305, .0505, and .0507, a quality application is one that contains all applicable application forms and the information requested therein, detailed and thorough analyses of all potentially applicable rules (state and federal), accurate and comprehensive emissions calculations, including sample calculations that enable the DAQ to verify their accuracy,

a complete air quality analysis (i.e., air dispersion modeling) if required, details about the proposed monitoring and recordkeeping that will be utilized to ensure compliance, and adherence to the scope of the original application submitted. Due to the complex nature of many facilities' processes and the permit review process, determination of the exact information needed to complete the technical review of any particular permit application can be an iterative process that benefits from a series of communications between the DAQ permit engineer and the applicant.

3. Application Preparation Assistance

To avoid the possible impacts described in the previous Subsection (i.e., withdrawal of their permit application), facilities may choose to hire professional consultant engineering services to complete their applications and facilitate communication with DAQ staff engineers to successfully achieve an issued permit within the stricter time periods. This may be more likely to affect small business applicants without in-house environmental permitting staff and whose business practices do not typically include using specialized environmental consulting services for permit application preparation. While the DAQ cannot predict the full range of reasons that may motivate any particular applicant to hire a consultant, the motivating factors may include: desire to avoid incurring an additional application fee upon resubmittal of a withdrawn application, as outlined in Subsection V.B.2 above; urgency to receive the permit to receive authorization to begin construction of the facility or facility modification; and/or potential loss of revenue due to delayed project deadlines or commitments to customers/clients.

DAQ's analysis of its past five years of permitting data suggests that its internal efficiency in processing permits is already maximized. The primary factor for delays in processing permit modification applications appears to be incomplete information submitted with the paperwork and the downtime waiting for a response and information from applicants. As a result of the statutory change and required rule revisions, to ensure their application is processed and issued under the time restrictions, applicants may find it necessary to spend more time or hire a specialized environmental consultant to complete the application. This cost is not a requirement of the proposed rule; rather, it is a potential byproduct of the reduced flexibility afforded by the more stringent timelines.

Because it is possible that facilities may choose to hire environmental consulting services for their permit application preparation, those potential costs are outlined in this Subsection, to provide context around this uncertain impact. The North Carolina Department of Commerce's Labor and Economic Analysis Division uses the D4, Demand Driven Data Delivery, to provide employment information to the public as the official labor market data source.³ The average weekly reported wage for environmental consulting services was \$1,742.00, which equates to approximately \$43.55 per hour.

³ D4 data accessed 8/27/2024 for North American Industry Classification System (NAICS) 541620. <https://d4.nccommerce.com/>. Hourly wage was calculated using a 40-hour work week.

Table 3: North Carolina D4 Labor Market Data

Environmental Consulting Services	Year 2023
Avg. hourly wage	\$43.55

Environmental engineering consultants may also be hired to prepare permit applications. The US Department of Labor Statistics reported an average hourly wage of \$50.65 for Environmental Engineers in North Carolina (Table 3).⁴

Table 4: U.S. Bureau of Labor Statistics Wage Data for North Carolina

Environmental Engineer	Year 2023
Avg. hourly wage	\$ 50.65

The time needed to complete a permit modification application is unique to each facility’s project, but generally increases with increasing project scope and complexity. On the low end, a project may require between one and two weeks of work by one consultant to complete an application for submission to the DAQ. On the high end, it may take months and multiple consultants. Furthermore, facilities may seek alternatives to fill this need from within through alternative business means. Many facilities, especially more experienced applicants, already employ environmental experts internally and externally to fulfill their permit preparation needs. Because of this uncertainty and the wide range of time that any given application may require, the values listed in this Subsection are provided for context only and are not intended to represent a total cost impact of this rulemaking.

4. Application Consolidations and Streamlining

Often, the DAQ processes simultaneously pending permit renewal and permit modification applications for a facility concurrently. This allows the DAQ to combine the technical review for both applications, thus streamlining the reviews. With the S.L. timelines applying to a subset of the total permit applications reviewed by the DAQ, certain efficiency approaches to permit processing - such as consolidation of permit applications for a more streamlined review -- may no longer be practical since processing of a combined renewal and modification application may not be feasible under the modification’s new 90-day timeline.

Additionally, if a facility with a pending modification submits another modification application, the DAQ also often consolidates these two applications into one technical review. As with combined renewal/modifications, this streamlines the DAQ’s review process and creates efficiencies that help the permitting staff balance workload. Upon implementation of these rule revisions, it may no

⁴ U.S. Bureau of Labor Statistics (BLS) data for Environmental Engineer hourly wage in NC accessed 8/27/2024. <https://www.bls.gov/oes/current/oes172081.htm#st>

longer be feasible for the Division to consolidate these applications while adhering to the new S.L. timelines.

VI. Public Health and Environmental Impacts

The emissions standards and requirements that a facility must meet in order to receive a permit from the DAQ have not changed in this proposal. Additionally, S.L. 2024-1, Section 4.13 requires the review and approval of these air permitting program changes by the EPA for this rulemaking to be fully implemented, which ensures standards for air quality permitting will be maintained. The permit review process must still adhere to the requirements for North Carolina's SIP and all federal and state requirements for facility emissions. For these reasons, the quality of DAQ's review will not be diminished because of the proposed review time constraints. Therefore, no impact to the environment or public health are expected to occur due to the changes within this proposed rulemaking.

VII. Rule Alternatives

In accordance with N.C.G.S. 150B-21.4(b2)(5), the fiscal note for a proposed rulemaking with a substantial economic impact is required to contain a description of at least two alternatives to the proposed rules. As defined in N.C.G.S. 150B-21.4(b1), "substantial economic impact" means an aggregate financial impact on all persons affected of at least one million dollars (\$1,000,000) in a 12-month period. As shown in Section V of this fiscal note, the proposed rules are not expected to have a substantial economic impact. Therefore, no alternatives have been evaluated in this section.

VIII. Cost and Benefit Summary

The most likely potential for benefits resulting from this rulemaking is increased certainty for regulated entities and state personnel, with a more defined review timeline for processing complete applications. This increased certainty could provide an incremental benefit to applicants who are in the planning phase of their projects.

The proposed rule will require adjustments to DAQ's current application review process which are likely to result in reduced flexibilities for the applicant throughout the permit review process. As a result of tighter application processing timelines, some applicants may choose to use external consulting services to assist with preparing their permit applications, which may result in an additional cost to the applicants. While the proposed rule does not require the hiring of external consulting services, DAQ believes it is a likely outcome for a small portion of applicants, particularly those with more complex projects and those without in-house expertise. The estimated cost to hire a qualified consultant in North Carolina ranges from an average of \$43.55 to \$50.65 per hour. The total costs incurred by applicants to hire consultants would be largely dependent on the number of hours involved in preparing the application, which can vary greatly between simple and highly complex projects.

DAQ did not identify any impacts to local governments. To the extent that any of North Carolina's local government air agencies choose to adopt similar review timelines for the air quality permits within their jurisdiction, those entities may experience similar impacts to those described throughout this analysis. However, there is no indication that these changes in permit modification review timelines would impact the review processes implemented by any of the local air quality agencies in North Carolina.

1 15A NCAC 02Q .0303 is proposed for amendment as follows:

2
3 **15A NCAC 02Q .0303 DEFINITIONS**

4 For the purposes of this Section, the following definitions apply:

5 ~~(1)~~ (1) "Complete application" means an application that is administratively complete, as defined in G.S.
6 143-213, and provides all information necessary to determine compliance with all applicable federal
7 and State requirements.

8 ~~(1)(2)~~ (2) "Modified facility" means a modification of an existing facility or source and:

- 9 (a) the permitted facility or source is being modified in such a manner as to require a new or
10 reissued permit pursuant to this Section; or
11 (b) a new source is being added in such a manner as to require a new or reissued permit
12 pursuant to this Section.

13 A modified facility does not include a facility or source that requests to change name or ownership,
14 construction or test dates, or reporting procedures.

15 ~~(2)(3)~~ (3) "New facility" means a facility that is receiving a permit from the Division for construction and
16 operation of an emission source that it is not currently permitted.

17 ~~(3)(4)~~ (4) "Plans and Specifications" means the completed application and any other documents required to
18 define the operating conditions of the air pollution source.

19 ~~(4)(5)~~ (5) "Responsible official" means one of the following:

- 20 (a) for a corporation: a president, secretary, treasurer, or vice-president of the corporation who
21 is in charge of a principal business function; any other person who performs similar policy
22 or decision-making functions for the corporation; or a duly-authorized representative of
23 such a person if the representative is responsible for the overall operation of one or more
24 manufacturing, production, or operating facilities applying for or subject to a permit and
25 either;

26 (i) the facilities employ more than 250 persons or have gross annual sales or
27 expenditures exceeding twenty-five million dollars (\$25,000,000) (in second
28 quarter 1980 dollars); or

29 (ii) the delegation of authority to such representatives is approved in advance by the
30 permitting authority;

31 (b) for a partnership or sole proprietorship: a general partner or the proprietor, respectively; or

32 (c) for a municipality, State, federal, or other public agency: either a principal executive officer
33 or ranking elected official. A principal executive officer of a federal agency includes the
34 chief executive officer having responsibility for the overall operations of a principal
35 geographic unit of the agency (e.g., a Regional Administrator of EPA).

36 ~~(5)(6)~~ (6) "Title IV source" means a source that is required to be permitted pursuant to 15A NCAC 02Q .0400.

37 ~~(6)(7)~~ (7) "Title V source" means a source that is required to be permitted pursuant to 15A NCAC 02Q .0500.

1
2
3
4
5
6
7
8
9
10
11

*History Note: Authority G.S. 143-213; 143-215.3(a)(1);
Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule
becomes effective, whichever is sooner;
Eff. July 1, 1994;
Readopted Eff. April 1, ~~2018~~-2018;
Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the
Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental
Protection Agency has approved the amended rule into the North Carolina State Implementation
Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*

1 15A NCAC 02Q .0304 is proposed for amendment as follows:

2
3 **15A NCAC 02Q .0304 APPLICATIONS**

4 (a) Obtaining and filing application. Permit, permit modification, or permit renewal applications may be obtained and
5 shall be filed according to 15A NCAC 02Q .0104.

6 (b) Information to accompany application. Along with ~~filing a complete application form, the applicant shall also file~~
7 the completed applicable application forms, the application shall contain the following:

8 (1) for a new facility or an expansion of existing facility, a zoning consistency determination according
9 to G.S. 143-215.108(f) that:

10 (A) bears the date of receipt entered by the clerk of the local government; or

11 (B) consists of a letter from the local government indicating that zoning or subdivision
12 ordinances are met by the facility;

13 (2) for a new facility or an expansion of existing facility in an area without zoning, an affidavit and
14 proof of publication of a legal notice as required pursuant to 15A NCAC 02Q .0113;

15 (3) for permit renewal, an emissions inventory that contains the information specified pursuant to 15A
16 NCAC 02D .0202 using emission inventory forms or electronic data systems provided by the
17 Division; and

18 (4) documentation showing the applicant complies with Parts (A) or (B) of this Subparagraph if this
19 information is necessary to evaluate the source, its air pollution abatement equipment, or the facility:

20 (A) the applicant is financially qualified to carry out the permitted activities; or

21 (B) the applicant has substantially complied with the air quality and emissions standards
22 applicable to any activity in which the applicant has previously been engaged, and has been
23 in substantial compliance with federal and State environmental laws and rules.

24 (c) When to file application. For sources subject to the requirements of 15A NCAC 02D .0530 or .0531, applicants
25 shall file air permit applications no less than 180 days before the projected construction date. For other sources,
26 applicants shall file air permit applications no less than 90 days before the projected date of construction of a new
27 source or modification of an existing source.

28 (d) Permit renewal, name, or ownership changes with no modifications. If no modification has been made to the
29 originally permitted source, application for permit change may be made by application to the Director as specified in
30 15A NCAC 02Q .0104. The permit renewal, name, or ownership change application shall state that there have been
31 no changes in the permitted facility since the permit was last issued.

32 To make a name or ownership change, the applicant shall send the Director the content specified in 15A NCAC 02Q
33 .0305(3) or (4) signed by the responsible official as defined in 15A NCAC 02Q .0303.

34 (e) Applications for date and reporting changes. Application for changes in construction or test dates or reporting
35 procedures may be made by letter to the Director as specified in 15A NCAC 02Q .0104. To make changes in
36 construction or test dates or reporting procedures, the applicant shall send the Director the letter specified in 15A
37 NCAC 02Q .0305(5) signed by the responsible official as defined in 15A NCAC 02Q .0303.

1 (f) When to file applications for permit renewal. Applicants shall file applications for renewals as specified in 15A
2 NCAC 02Q .0104 no less than 90 days before expiration of the permit. If a hard copy of the application is mailed to
3 the Director, the application shall be postmarked no later than 90 days before expiration of the permit.

4 (g) Name or ownership change. The permittee shall file requests for permit name or ownership changes when the
5 permittee is aware of the name or ownership change.

6 (h) Requesting additional information. Whenever the information provided on the permit application forms does not
7 adequately describe the source or its air cleaning device, the Director may request that the applicant provide other
8 information to evaluate the source or its air cleaning device. Before acting on a permit application, the Director may
9 request information from an applicant and conduct an inquiry or investigation to determine compliance with standards.

10 (i) Application fee. With the exceptions specified in 15A NCAC 02Q ~~.0203(i)~~, .0203(l), a non-refundable permit
11 application processing fee shall accompany the application. The permit application processing fees are listed in 15A
12 NCAC 02Q .0200. ~~A permit application shall be incomplete until the permit application processing fee is received.~~

13 (j) Correcting submittals of incorrect information. An applicant shall have a continuing obligation to submit relevant
14 facts pertaining to his or her permit application and to correct incorrect information in his or her permit application.

15 (k) Retaining copy of permit application package. The applicant shall retain during the permit term one complete
16 copy of the application package and the information submitted in support of the application package.

17
18 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*

19 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule is*
20 *effective, whichever is sooner;*

21 *Eff. July 1, 1994;*

22 *Amended Eff. September 1, 2015; January 1, 2009; December 1, 2005; July 1, 1999;*

23 *Readopted Eff. April 1, 2018;*

24 *Amended Eff. September 1, 2023.*

25 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*
26 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*
27 *Protection Agency has approved the amended rule into the North Carolina State Implementation*
28 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*

1 15A NCAC 02Q .0305 is proposed for amendment as follows:

2
3 **15A NCAC 02Q .0305 APPLICATION SUBMITTAL CONTENT**

4 If an applicant does not submit the following information with the application package, the application package shall
5 be considered incomplete ~~for processing~~, and not accepted by the Division for processing:

- 6 (1) for new facilities and modified facilities:
- 7 (a) an application fee required pursuant to 15A NCAC 02Q .0200;
 - 8 (b) a zoning consistency determination required pursuant to 15A NCAC 02Q .0304(b)(1);
 - 9 (c) the documentation required pursuant to 15A NCAC 02Q .0304(b)(2) if required;
 - 10 (d) a financial qualification or substantial compliance statement pursuant to 15A NCAC 02Q
11 .0507(d)(3), if required; and
 - 12 (e) ~~applications~~ application forms required and submitted pursuant to 15A NCAC 02Q
13 .0304(a) and signed by the responsible official;
- 14 (2) for renewals: the application required pursuant to 15A NCAC 02Q .0304(a) and (d), signed by the
15 responsible official, and an emissions inventory that contains the information specified pursuant to
16 15A NCAC 02D .0202, Registration of Air Pollution Sources;
- 17 (3) for a name change: a letter signed by the responsible official indicating the current facility name,
18 the date on which the name change will occur, and the new facility name;
- 19 (4) for an ownership change: an application fee required pursuant to 15A NCAC 02Q .0200 and:
- 20 (a) a letter signed by the seller and the buyer, indicating the change;
 - 21 (b) a letter bearing the signature of both the seller and buyer, containing a written agreement
22 with a specific date for the transfer of permit responsibility, coverage, and liability between
23 the current and new permittee; or
 - 24 (c) submit the form provided by the Division pursuant to 15A NCAC 02Q .0104; and
- 25 (5) for corrections of typographical errors; changes in name, address, or telephone number of the
26 individual identified in the permit; changes in test dates or construction dates; or similar minor
27 changes: a letter signed by the responsible official describing the proposed change and explaining
28 the need for the proposed change.

29
30 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;*
31 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
32 *becomes effective, whichever is sooner;*
33 *Eff. July 1, 1994;*
34 *Amended Eff. December 1, 2005; April 1, 2004;*
35 *Readopted Eff. April 1, 2018;*
36 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*
37 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*

1
2
3
4

Protection Agency has approved the amended rule into the North Carolina State Implementation Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.); September 1, 2023.

1 15A NCAC 02Q .0312 is proposed for amendment as follows:

2
3 **15A NCAC 02Q .0312 APPLICATION PROCESSING SCHEDULE**

4 (a) The Division shall adhere to the ~~following schedule~~ schedules of this Paragraph for processing applications for
5 ~~permits, permit modifications, permits and permit renewals renewals:~~ submitted pursuant to this Section. The
6 schedules of this Paragraph shall only apply to applications for permit modifications as specified in Paragraph (b) of
7 this Rule.

8 (1) ~~for For permit applications, except for applications that do not require review for~~ prevention of
9 significant deterioration pursuant to 15A NCAC 02D .0530 ~~and or~~ case-by-case maximum
10 achievable control technology pursuant to 15A NCAC 02D .1109 or ~~1112~~. 1112, the Division shall
11 follow the procedures of Parts (a)(1)(A) through (F) of this Rule.

12 (A) Within 10 days of receiving an application, the ~~The~~ Division shall send the applicant
13 written acknowledgment of receipt of the permit application ~~application. The~~
14 acknowledgement letter shall also state whether the application is accepted for processing.
15 Applications containing the minimum processing elements of 15A NCAC 02Q .0305 shall
16 be accepted for processing. If the application does not contain the minimum processing
17 elements of 15A NCAC 02Q .0305, the acknowledgement letter shall state to the applicant
18 within 10 days of receipt of the application, that the application is not accepted for
19 processing and shall list the application elements of 15A NCAC 02Q .0305 that are missing
20 from the application package.

21 (B) For applications accepted for processing by the Division pursuant to Part (a)(1)(A) of this
22 Rule, the ~~The~~ Division shall review all permit applications within 45 days of receipt of the
23 application to determine whether the application if it is a complete application, or
24 incomplete for processing purposes. Within 45 days of receiving the application, The the
25 Division shall notify the applicant in writing that:

26 (i) the application as submitted is ~~complete and complete,~~ specifying the
27 completeness ~~date, date;~~

28 (ii) the application is incomplete, requesting additional information necessary to
29 make the application complete, and specifying the ~~deadline~~ date by which the
30 requested information ~~is to shall~~ be received by the Division, Division to deem
31 the application complete; or

32 (iii) the application is ~~incomplete~~ incomplete, requesting that the applicant rewrite and
33 resubmit the application.

34 If the Division does not notify the applicant in writing within 45 days of receipt of ~~the~~ an
35 accepted application that the application is incomplete, the application shall be deemed
36 complete. A completeness determination shall not prevent the Director from requesting
37 additional information ~~at a later date~~ later in the review process if such information is

1 necessary to properly evaluate the source, its air pollution abatement equipment, or the
2 facility. If the applicant has not provided the requested additional information by the date
3 specified in a written request for additional ~~information~~, information pursuant to Subpart
4 (ii) of this Part, the Director shall cease processing the application until additional
5 information is provided. The applicant may request a time extension for submittal of the
6 requested additional information.

7 ~~(C)~~ ~~The Division shall determine within 45 days of receipt of a complete application if any~~
8 ~~additional information is needed to conduct the technical review of the application. A~~
9 ~~technical completeness determination shall not prevent the Director from requesting~~
10 ~~additional information at a later date if such information is necessary to properly evaluate~~
11 ~~the source, its air pollution abatement equipment, or the facility. The Division shall~~
12 ~~complete the technical review within 90 days of receipt of a complete application or 10~~
13 ~~days after receipt of requested additional information, whichever is later.~~

14 ~~(D)~~(C) If the draft permit is not required to go to public notice or to public hearing, the Director
15 shall issue or deny the permit within 90 days of receipt of a complete application or 10
16 days after receipt of requested additional information, whichever is later.

17 ~~(E)~~(D) If the draft permit is required to go to public notice with a an request for opportunity to
18 request a for public hearing pursuant to 15A NCAC 02Q .0306(a), the Director shall:

- 19 (i) ~~send~~publish the draft permit ~~to~~ for public notice within 90 days after receipt of a
20 complete application; and
21 (ii) complete the review of the record and take final action on the permit within 30
22 days after the close of the public comment period.

23 ~~(F)~~(E) If the draft permit is required to go to public hearing as a result of a request for public
24 hearing pursuant to 15A NCAC 02Q .0306 or .0307, ~~.0307(e)~~, the Director shall:

- 25 (i) send the draft permit to public hearing within 45 days after approving the request
26 for the public hearing; and
27 (ii) complete the review of the record and take final action on the permit within 30
28 days after the close of the public hearing.

29 (2) ~~for~~For permit applications for prevention of significant deterioration pursuant to 15A NCAC 02D
30 .0530, the processing schedules are set out in that Rule.

31 (3) ~~for~~For permit applications for case-by-case maximum achievable control technology pursuant to
32 15A NCAC 02D .1109 or ~~.1112~~ .1112 that are not permit modification applications, the processing
33 schedules and procedures of Parts (A) through (E) of this Subparagraph shall apply.

34 (A) Within 10 days of receiving an application the ~~The~~ Division shall send the applicant written
35 acknowledgment of receipt of the permit ~~application~~ application. The acknowledgement
36 letter shall also state whether the application is accepted for processing. Applications
37 containing the minimum processing elements of 15A NCAC 02Q .0305 shall be accepted

1 for processing. If the application does not contain the minimum processing elements of
2 15A NCAC 02Q .0305, the acknowledgement letter shall state to the applicant within 10
3 days of receipt of the application, that the application has not been accepted for processing
4 and shall list the application elements of 15A NCAC 02Q .0305 that are missing from the
5 application package.

6 (B) For applications accepted by the Division pursuant to Part (A) of this Subparagraph, the
7 The Division shall review all permit applications within 45 days of receipt of the
8 application to determine whether the application, if it is a complete application, or
9 incomplete for processing purposes. The Within 45 days of receiving the application, the
10 Division shall notify the applicant in writing that:

- 11 (i) the application as submitted is ~~complete and complete~~, specifying the
12 completeness ~~date, date~~;
13 (ii) the application is incomplete, requesting additional information necessary to
14 make the application complete, and specifying the ~~deadline~~ date by which the
15 requested information ~~is to shall~~ be received by the ~~Division~~, Division to
16 determine the application as complete; or
17 (iii) the application is ~~incomplete~~ incomplete, requesting that the applicant rewrite and
18 resubmit the application.

19 If the Division does not notify the applicant in writing within 45 days of receipt of ~~the an~~
20 accepted application that the application is incomplete, the application shall be deemed
21 complete. A completeness determination shall not prevent the Director from requesting
22 additional information ~~at a later date~~ later in the review process if such information is
23 necessary to properly evaluate the source, its air pollution abatement equipment, or the
24 facility. If the applicant has not provided the requested additional information by the date
25 specified in the letter requesting additional ~~information~~, information pursuant to Subpart
26 (ii) of this Part, the Director shall cease processing the application until additional
27 information is provided. The applicant may request a time extension for submittal of the
28 requested additional information.

29 ~~(C)~~ The Division shall determine within 60 days of receipt of a complete application if any
30 additional information is needed to conduct the technical review of the application. A
31 technical completeness determination shall not prevent the Director from requesting
32 additional information at a later date if such information is necessary to properly evaluate
33 the source, its air pollution abatement equipment, or the facility. The Division shall
34 complete the technical review within 120 days of receipt of a complete application or 10
35 days after receipt of requested additional information, whichever is later.

36 ~~(D)~~(C) The Director shall:

- 1 (i) ~~send~~ publish the draft permit ~~to~~ for public notice within 120 days after receipt of
2 a complete application or 10 days after receipt of requested additional
3 information, whichever is later; and
4 (ii) complete the review of the record and take final action on the permit within 30
5 days after the close of the public comment period.

6 ~~(E)(D)~~ If the draft permit is required to go to public hearing as a result of a request for public
7 hearing pursuant to 15A NCAC 02Q .0306 or .0307, ~~.0307(e)~~, the Director shall:

- 8 (i) send the draft permit to public hearing within 45 days after approving the request
9 for the public hearing; and
10 (ii) complete the review of the record and take final action on the permit within 30
11 days after the close of the public hearing.

12 The days that fall between sending out a written notification requesting additional information and receiving that
13 additional information shall not be counted in the schedules pursuant to this Paragraph.

14 ~~(b) The days that fall between sending out a written notification requesting additional information and receiving that~~
15 ~~additional information shall not be counted in the schedules pursuant to Paragraph (a) of this Rule.~~

16 (b) For permit modification applications reviewed pursuant to this Section, the Division shall adhere to the processing
17 schedule of this Paragraph.

18 (1) The Division shall send written acknowledgement of receipt and acceptance or non-acceptance of
19 permit modification applications using the procedures and timelines Part (a)(1)(A) or (a)(3)(A) of
20 this Rule, as applicable.

21 (2) For permit modification applications that are accepted for processing by the Division pursuant to
22 Subparagraph (1) of this Paragraph, the Division shall notify the applicant of the completeness
23 determination of the application using the procedures and timelines of Part (a)(1)(B) or (a)(3)(B) of
24 this Rule, as applicable.

25 (3) Within 90 calendar days of the application completeness date pursuant to Subparagraph (2) of this
26 Paragraph, the Director shall take one of the following actions:

27 (A) If the draft permit is not required to go to public notice or to public hearing, the Director
28 shall issue or deny the permit.

29 (B) If the draft permit is required to go to public notice with an opportunity to request a public
30 hearing pursuant to 15A NCAC 02Q .0306 or .0307, the Director shall publish the draft
31 permit for public notice within 90 calendar days of receipt of a complete application, and
32 shall complete the review of the record and take final action on the permit within the
33 timeline specified in Subpart (a)(1)(D)(ii) or (a)(3)(C)(ii) of this Rule, as applicable.

34 (4) If the draft permit is required to go to public hearing as a result of a request for public hearing
35 pursuant to 15A NCAC 02Q .0306 or .0307, the Director shall follow the procedures and timelines
36 of Part (a)(1)(E) or (a)(3)(D) of this Rule, as applicable.

37 (c) The Director shall cease processing an application that contains insufficient information to complete the review.

1
2
3
4
5
6
7
8
9
10

History Note: Authority G.S. 143-215.3(a)(1); 143-215.108;
Eff. February 1, 1995;
Amended Eff. July 1, 1998;
Readopted Eff. April 1, ~~2018~~2018;
Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the
Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental
Protection Agency has approved the amended rule into the North Carolina State Implementation
Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)

1 15A NCAC 02Q .0503 is proposed for amendment as follows:

2
3 **15A NCAC 02Q .0503 DEFINITIONS**

4 For the purposes of this Section, the definitions in G.S. 143-212, G.S. 143-213, 15A NCAC 02Q .0103, and the
5 following definitions apply:

- 6 (1) "Affected States" means all states or local air pollution control agencies whose areas of jurisdiction
7 are:
8 (a) contiguous to North Carolina and located less than $D=Q/12.5$ from the facility, where:
9 (i) Q = emissions of the pollutant emitted at the highest permitted rate in tons per
10 year, and
11 (ii) D = distance from the facility to the contiguous state or local air pollution control
12 agency in miles unless the applicant can demonstrate that the ambient impact in
13 the contiguous states or local air pollution control agencies is less than the
14 incremental ambient levels in 15A NCAC 02D .0532(c)(5); or
15 (b) within 50 miles of the permitted facility.
16 (2) "Complete application" means an application that is administratively complete, as defined in G.S.
17 143-213, and provides all information described in 40 CFR 70.5(c) and such other information that
18 is necessary to determine compliance with all applicable federal and State requirements.
19 (3) "Draft permit" means the version of a permit that the Division offers for public participation
20 pursuant to 15A NCAC 02Q .0521 or affected state review pursuant to 15A NCAC 02Q .0522.
21 (4) "Emissions allowable under the permit" means an emissions limit, including a work practice
22 standard, established by a federally enforceable permit term or condition, or a federally enforceable
23 emissions cap that the facility has assumed to avoid an applicable requirement to which the facility
24 would otherwise be subject.
25 (5) "Final permit" means the version of a permit that the Director issues that has completed all review
26 procedures required pursuant to this Section if the permittee does not file a petition pursuant to
27 Article 3 of G.S. 150B that is related to the permit.
28 (6) "Fugitive emissions" means those emissions which could not reasonably pass through a stack,
29 chimney, vent, or other functionally-equivalent opening.
30 (7) "Insignificant activities because of category" means:
31 (a) mobile sources;
32 (b) air-conditioning units used for human comfort that are not subject to applicable
33 requirements pursuant to Title VI of the federal Clean Air Act and do not exhaust air
34 pollutants into the ambient air from any manufacturing or other industrial process;
35 (c) ventilating units used for human comfort that do not exhaust air pollutants into the ambient
36 air from any manufacturing or other industrial process;

- 1 (d) heating units used for human comfort that have a heat input of less than 10,000,000 Btu
2 per hour and that do not provide heat for any manufacturing or other industrial process;
- 3 (e) noncommercial food preparation;
- 4 (f) consumer use of office equipment and products;
- 5 (g) janitorial services and consumer use of janitorial products;
- 6 (h) internal combustion engines used for landscaping purposes;
- 7 (i) new residential wood heaters subject to 40 CFR Part 60, Subpart AAA; and
- 8 (j) demolition and renovation activities covered solely pursuant to 40 CFR Part 61, Subpart
9 M.
- 10 (8) "Insignificant activities because of size or production rate" means any activity whose emissions
11 would not violate any applicable emissions standard and whose potential emission of particulate,
12 sulfur dioxide, nitrogen oxides, volatile organic compounds, and carbon monoxide before air
13 pollution control devices, are each no more than five tons per year and whose potential emissions
14 of hazardous air pollutants before air pollution control devices, are each below 1000 pounds per
15 year.
- 16 (9) "Minor facility" means any facility that is not a major facility.
- 17 (10) "Operation" means the use of equipment that emits regulated pollutants.
- 18 (11) "Permit renewal" means the process by which a permit is reissued at the end of its term.
- 19 (12) "Permit revision" means any permit modification pursuant to 15A NCAC 02Q .0515, .0516, or .0517
20 or any administrative permit amendment pursuant to 15A NCAC 02Q .0514.
- 21 (13) "Proposed permit" means the version of a permit that the Director proposes to issue and forwards to
22 EPA for review pursuant to 15A NCAC 02Q .0522.
- 23 (14) "Responsible official" means a responsible official as defined in 40 CFR 70.2.
- 24 (15) "Section 502(b)(10) changes" means changes that contravene an express permit term or condition.
25 Such changes shall not include changes that would violate applicable requirements or contravene
26 federally enforceable permit terms and conditions that are monitoring, including test methods,
27 recordkeeping, reporting, or compliance certification requirements.
- 28 (16) "Synthetic minor facility" means a facility that would otherwise be required to follow the procedures
29 of this Section except that the potential to emit is restricted by one or more federally enforceable
30 physical or operational limitations, including air pollution control equipment and restrictions on
31 hours or operation, the type or amount of material combusted, stored, or processed, or similar
32 parameters.
- 33 (17) "Timely" means:
- 34 (a) for a new facility or newly subject facility, 12 months from the date that the facility or
35 source becomes subject to the Title V operating permit program pursuant to 15A NCAC
36 02Q .0500;

- 1 (b) for renewal of a permit previously issued pursuant to this Section, six months before the
2 expiration of that permit;
- 3 (c) for a minor modification pursuant to 15A NCAC 02Q .0515, before commencing the
4 modification;
- 5 (d) for a significant modification pursuant to 15A NCAC 02Q .0516 where the change would
6 not contravene or conflict with a condition in the existing permit, 12 months after
7 commencing operation;
- 8 (e) for reopening for cause pursuant to 15A NCAC 02Q .0517, as specified by the Director in
9 a request for additional information by the Director;
- 10 (f) for requests for additional information, as specified by the Director in a request for
11 additional information by the Director; or
- 12 (g) for modifications made pursuant to Section 112(j) of the federal Clean Air Act, 18 months
13 after EPA fails to promulgate a standard for that category of source pursuant to Section
14 112 of the federal Clean Air Act by the date established pursuant to Section 112(e)(1) or
15 (3) of the federal Clean Air Act.

16
17 *History Note:* Authority G.S. 143-212; 143-213; 143-215.3(a)(1);
18 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
19 *becomes effective, whichever is sooner;*
20 *Eff. July 1, 1994;*
21 *Amended Eff. July 1, 1996;*
22 *Temporary Amendment Eff. December 1, 1999;*
23 *Amended Eff. January 1, 2007; July 1, 2000;*
24 *Readopted Eff. April 1, 2018;*
25 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*
26 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*
27 *Protection Agency has approved the amended rule into the North Carolina State Implementation*
28 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.);*
29 *September 1, 2022.*

1 15A NCAC 02Q .0505 is proposed for amendment as follows:

2
3 **15A NCAC 02Q .0505 APPLICATION SUBMITTAL CONTENT**

4 If an applicant does not submit the following information with its application package, the application package shall
5 not be accepted by the Division for processing; returned:

- 6 (1) for new facilities and modified facilities:
- 7 (a) an application fee as required pursuant to 15A NCAC 02Q .0200;
 - 8 (b) a consistency determination as required pursuant to 15A NCAC 02Q ~~.0507(d)(1);~~
9 .0507(d)(1) or the documentation required pursuant to 15A NCAC 02Q .0507(d)(2);
 - 10 ~~(c) the documentation required pursuant to 15A NCAC 02Q .0507(d)(2);~~
 - 11 ~~(d)(c)~~ (c) a financial qualification or substantial compliance statement pursuant to 15A NCAC 02Q
12 .0507(d)(3) if required; and
 - 13 ~~(d)~~ (d) applications submitted as required pursuant to 15A NCAC 02Q .0507(a), signed as
14 required by 15A NCAC 02Q .0520;
- 15 (2) for renewals: applications ~~as required pursuant to 15A NCAC 02Q .0507(a),~~ signed as required by
16 15A NCAC 02Q .0520;
- 17 (3) for a name change: a letter signed by a responsible official in accordance with 15A NCAC 02Q
18 .0520 indicating the current facility name, the date on which the name change will occur, and the
19 new facility name;
- 20 (4) for an ownership change: an application fee as required pursuant to 15A NCAC 02Q .0200; and a
21 letter bearing the signature of both the seller and buyer and containing a written agreement with a
22 specific date for the transfer of permit responsibility, coverage, and liability between the current and
23 new permittee; and
- 24 (5) for corrections of typographical errors; changes of the name, address, or telephone number of an
25 individual identified in the permit; changes in test dates or construction dates; or similar ~~minor~~
26 ~~changes;~~ administrative changes pursuant to 15A NCAC 02Q .0514; a letter signed by a responsible
27 official in accordance with 15A NCAC 02Q .0520 describing the proposed change and explaining
28 the need for the proposed change.

29
30 *History Note: Authority G.S. 143-215.3(a)(1),(1a); 143-215.107(a)(10); 143-215.108;*
31 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
32 *becomes effective, whichever is sooner;*
33 *Eff. July 1, 1994;*
34 *Amended Eff. April 1, 2004;*
35 *Readopted Eff. April 1, 2018;*
36 *Amended Eff. September 1, 2023; September 1, 2022.*

1
2
3
4
5

Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental Protection Agency has approved the amended rule into the North Carolina State Implementation Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)

1 15A NCAC 02Q .0507 is proposed for amendment as follows:

2
3 **15A NCAC 02Q .0507 APPLICATION**

4 (a) Except for:

- 5 (1) minor permit modifications covered pursuant to 15A NCAC 02Q .0515;
- 6 (2) significant modifications covered pursuant to 15A NCAC 02Q .0516(c); or
- 7 (3) renewals submitted pursuant to 15A NCAC 02Q .0513;

8 the owner or operator of a new or existing source shall have 12 months after the facility or source becomes subject to
9 the Title V operating permit program pursuant to 15A NCAC 02Q .0500 to file a complete application for a permit or
10 permit revision. However, the owner or operator of a source shall not begin construction or operation of a source until
11 he or she has obtained a construction and operation permit pursuant to 15A NCAC 02Q .0501(b) or (c) and 15A
12 NCAC 02Q .0504.

13 (b) An application shall include the information described in 40 CFR 70.3(d) and 70.5(c), including a list of
14 insignificant activities because of size or production rate but not including insignificant activities because of category.
15 An application shall be certified by a responsible official for truth, accuracy, and completeness. In an application
16 submitted pursuant to this Rule, the applicant may attach copies of applications submitted pursuant to 15A NCAC
17 02Q .0400 or 15A NCAC 02D .0530 or .0531 if the information in those applications contains information required
18 in this Section and is current, accurate, and complete.

19 (c) Application for a permit, permit revision, or permit renewal shall be made in accordance with 15A NCAC 02Q
20 .0104 on forms of the Division and shall include plans and specifications with complete data and information as
21 required by this Rule. If the information provided on these forms does not describe the source or its air pollution
22 abatement equipment to the extent necessary to evaluate the application, the Director shall request that the applicant
23 provide other information necessary to evaluate the source and its air pollution abatement equipment.

24 (d) ~~Along with filing a complete application, the applicant shall also file the following:~~ The application shall contain
25 a zoning consistency determination, financial qualification demonstration, and substantial compliance statement as
26 specified in Subparagraphs (1) through (3) of this Paragraph.

27 (1) for a new facility or an expansion of existing facility, a consistency determination in accordance
28 with G.S. 143-215.108(f) that:

- 29 (A) bears the date of receipt entered by the clerk of the local government; or
- 30 (B) consists of a letter from the local government indicating that zoning or subdivision
31 ordinances are met by the facility;

32 (2) for a new facility or an expansion of an existing facility in an area without zoning, an affidavit and
33 proof of publication of a legal notice as required pursuant to 15A NCAC 02Q .0113; and

34 (3) if required by the Director, information showing that:

- 35 (A) the applicant is financially qualified to carry out the permitted activities; or
- 36 (B) the applicant has substantially complied with the air quality and emissions standards
37 applicable to any activity in which the applicant has previously been engaged and has been
38 in substantial compliance with federal and State environmental laws and rules.

1 (e) An applicant who fails to submit relevant facts or submits incorrect information in a permit application shall, upon
2 becoming aware of the failure or incorrect submittal, submit supplementary facts or corrected information to resolve
3 the deficiency. In addition, an applicant shall provide additional information to address requirements to which the
4 source becomes subject after the date the applicant filed a complete application but prior to release of a draft permit.

5 (f) The submittal of a complete permit application shall not affect the requirement that a facility have a permit pursuant
6 to 15A NCAC 02D .0530, .0531, or .0532 or pursuant to 15A NCAC 02Q .0400.

7 (g) The Director shall give priority to permit applications containing early reduction demonstrations pursuant to
8 Section 112(i)(5) of the federal Clean Air Act. The Director shall take final action on these permit applications after
9 receipt of the complete permit application.

10 (h) Except as specified in 15A NCAC 02Q ~~.0203(i)~~, .0203(l), a non-refundable permit application processing fee,
11 defined in 15A NCAC 02Q .0200, shall accompany the application. ~~The permit application shall be deemed~~
12 ~~incomplete until the permit application processing fee is received.~~

13 (i) The applicant shall retain during the permit term one complete copy of the application package and the information
14 submitted in support of the application package.

15
16 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*
17 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
18 *becomes effective, whichever is sooner;*
19 *Eff. July 1, 1994;*
20 *Amended Eff. July 1, 1997; July 1, 1996; February 1, 1995;*
21 *Temporary Amendment Eff. December 1, 1999;*
22 *Amended Eff. September 1, 2015; April 1, 2004; July 1, 2000;*
23 *Readopted Eff. April 1, 2018;*
24 *Amended Eff. Month DD, YYYY; September 1, 2023; September 1, 2022.*
25 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*
26 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*
27 *Protection Agency has approved the amended rule into the North Carolina State Implementation*
28 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*
29

1 15A NCAC 02Q .0515 is proposed for amendment as follows:

2
3 **15A NCAC 02Q .0515 MINOR PERMIT MODIFICATIONS**

4 (a) The procedures set out in this Rule shall apply to permit modifications if the modifications:

- 5 (1) do not violate any applicable requirement;
- 6 (2) do not involve significant changes to existing monitoring, reporting, or recordkeeping requirements
7 in the permit;
- 8 (3) do not require or change a case-by-case determination of an emission limitation or other standard, a
9 source-specific determination for temporary sources of ambient impacts, or a visibility or increment
10 analysis;
- 11 (4) do not seek to establish or change a permit term or condition for which there is no corresponding
12 underlying applicable requirement and that the facility has assumed to avoid an applicable
13 requirement to which the facility would otherwise be subject. Such terms and conditions include:
 - 14 (A) a federally enforceable emissions cap assumed to avoid an applicable requirement pursuant
15 to any provision of Title I of the federal Clean Air Act; or
 - 16 (B) an alternative emissions limit approved as part of an early reduction plan submitted
17 pursuant to Section 112(i)(5) of the federal Clean Air Act;
- 18 (5) are not modifications pursuant to any provision of Title I of the federal Clean Air Act; and
- 19 (6) are not required to be processed as a significant modification pursuant to 15A NCAC 02Q .0516.

20 (b) In addition to the items required pursuant to 15A NCAC 02Q .0505, an application requesting the use of the
21 procedures set out in this Rule shall include:

- 22 (1) an application form including:
 - 23 (A) a description of the change;
 - 24 (B) the emissions resulting from the change; and
 - 25 (C) identification of any new applicable requirements that will apply if the change occurs;
- 26 (2) a list of the facility's other pending applications awaiting group processing and a determination of
27 whether the requested modification, aggregated with these other applications, equals or exceeds the
28 thresholds set out in Subparagraphs (c)(1) through (3) of this Rule;
- 29 (3) the applicant's suggested draft permit;
- 30 (4) certification by a responsible official that the proposed modification meets the criteria for using the
31 procedures set out in this Rule and a request that these procedures be used; and
- 32 (5) complete information for the Director to use to notify EPA and affected states.

33 (c) The Director ~~shall~~ may use group processing for minor permit modifications processed pursuant to this Rule. The
34 Director shall notify EPA and affected states of the requested permit revisions pursuant to this Rule and shall provide
35 the information specified in 15A NCAC 02Q .0522 on a quarterly basis. If the aggregated emissions from all pending
36 minor permit modifications equal or exceed:

- 37 (1) 10 percent of the emissions allowed for the source for which the change is requested;

1 (2) 20 percent of the applicable definition of major facility; or

2 (3) five tons per year,

3 then the Director shall notify EPA and affected states within five business days of the requested permit revision
4 pursuant to this Rule and provide the information specified in 15A NCAC 02Q .0522.

5 (d) Within 90 calendar days after of receiving a complete an application for a minor permit modification that is
6 accepted by the Division for processing, that exceeds the thresholds in Subparagraphs (c)(1), (2), or (3) of this Rule
7 or 15 days after the end of EPA's 45 day review period, whichever is later, the Director shall: shall take one of the
8 following actions:

9 (1) issue the permit modification as proposed; and transmit the proposed permit to EPA for a review
10 period of 45 days. The effective date of the modified permit shall be 60 days after the issuance date
11 unless EPA objects in writing to the modified permit as proposed, in which case the procedures of
12 Paragraph (e) of this Rule shall apply;

13 (2) deny the permit modification application; or

14 (3) determine that the requested modification does not qualify for the procedures set out in this Rule
15 and should be processed pursuant to 15A NCAC 02Q ~~.0516; or~~ .0516.

16 (4) ~~revise the draft permit modification and transmit the proposed permit to EPA.~~

17 (e) If EPA objects in writing to issuance of a permit modification within its 45-day review period pursuant to
18 Subparagraph (d)(1) of this Rule, the Director shall notify the permittee of EPA's objection. Within 15 days of the
19 objection, the Division shall revise the draft permit modification and transmit to the EPA a revised proposed permit
20 in response to EPA's objections. The revised permit modification shall be issued and effective upon concurrence with
21 the EPA.

22 (e) ~~If the thresholds in Subparagraphs (c)(1), (2), and (3) of this Rule are not exceeded, the Director shall, within 180~~
23 ~~days after receiving a completed application for a permit modification or 15 days after the end of EPA's 45day review~~
24 ~~period, whichever is later:~~

25 (1) ~~issue the permit modification as proposed;~~

26 (2) ~~deny the permit modification application;~~

27 (3) ~~determine that the requested modification does not qualify for the procedures set out in this Rule~~
28 ~~and should be processed pursuant to 15A NCAC 02Q .0516; or~~

29 (4) ~~revise the draft permit modification and transmit the proposed permit to EPA.~~

30 (f) The permit applicant may make the change proposed in his minor permit modification application immediately
31 after filing ~~the completed an~~ application with that is accepted by the Division. After the applicant makes the change,
32 the facility shall comply with both the applicable requirements governing the change and the proposed permit terms
33 and conditions until the Director takes one of the final actions specified in ~~Paragraph~~ Paragraphs (d) or (e) of this
34 Rule. Between the filing of the permit modification application and the Director's final action, the facility need not
35 comply with the existing permit terms and conditions it seeks to modify. However, if the facility fails to comply with
36 its proposed permit terms and conditions during this time period, the Director may enforce the terms and conditions
37 of the existing permit that the applicant seeks to modify, as necessary to ensure protection of air quality.

- 1 (g) The permit shield allowed pursuant to 15A NCAC 02Q .0512 shall not extend to minor permit modifications.
2 (h) If the State-enforceable only portion of the permit is revised, the procedures in 15A NCAC 02Q. 0300 shall be
3 followed.
4 (i) The proceedings shall affect only those parts of the permit related to the modification.

5

6 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*
7 *Temporary Adoption Eff. March 8, 1994 for a period of 180 days or until the permanent rule*
8 *becomes effective, whichever is sooner;*
9 *Eff. July 1, 1994;*
10 *Amended Eff. July 1, 1997;*
11 *Readopted Eff. April 1, 2018.*
12 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*
13 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*
14 *Protection Agency has approved the amended rule into the North Carolina State Implementation*
15 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*

16

1 15A NCAC 02Q .0525 is proposed for amendment as follows:

2
3 **15A NCAC 02Q .0525 APPLICATION PROCESSING SCHEDULE**

4 (a) The Division shall adhere to the following schedule in processing permit applications:

5 (1) Within 10 days of receiving an application, the ~~The~~ Division shall send the applicant written
6 acknowledgment ~~of receipt of an application to the applicant within 10 days of receipt of the~~
7 ~~application.~~ that the application was received. The acknowledgement letter shall also state whether
8 the application was accepted for processing pursuant to Part (A) of this Subparagraph, or the
9 application is not accepted for processing pursuant to Part (B) of this Subparagraph.

10 (A) For an application that contains the minimum processing elements of 15A NCAC 02Q
11 .0505 and .0507, the acknowledgement letter shall state that the application is accepted by
12 the Division for processing; and

13 (B) For an application that does not contain the minimum processing elements of 15A NCAC
14 02Q .0505 and .0507, the acknowledgement letter shall state that the application is not
15 accepted for processing, indicate the application elements of 15A NCAC 02Q .0505 or
16 .0507 that are missing from the application package, and request that the applicant resubmit
17 the application package.

18 (2) For applications accepted by the Division pursuant to Part (a)(1)(A) of this Rule, the ~~The~~ Division
19 shall review ~~all the permit application applications~~ within 60 days of receipt of the application to
20 determine whether the application is complete or incomplete. ~~A completeness determination shall~~
21 ~~not be necessary for minor modifications pursuant to 15A NCAC 02Q .0515.~~ The Division shall
22 notify the applicant ~~by letter;~~ in writing that:

23 ~~(a)(A) stating that the application as submitted is complete and complete,~~ specifying the
24 completeness date;

25 ~~(b)(B) stating that the application is incomplete, requesting additional information necessary to~~
26 make the application complete, conduct the technical review of the application; and
27 specifying the date by which the requested information ~~is required to shall~~ be received by
28 the ~~Division;~~ Division; or

29 ~~(c)(C) stating that the application is incomplete and incomplete,~~ requesting that the applicant
30 rewrite and resubmit the application.

31 If the Division does not notify the applicant by letter dated within 60 days of receipt of the
32 application that the application is incomplete, the application shall be deemed complete. ~~A~~
33 ~~completeness determination shall not prevent the Director from requesting additional information~~
34 ~~at a later date if such information is necessary to properly evaluate the source, its air pollution~~
35 ~~abatement equipment, or the facility. If the applicant has not provided the requested additional~~
36 ~~information by the date specified in the letter requesting additional information, the Director shall~~

1 ~~cease processing the application until additional information is provided. The applicant may request~~
2 ~~a time extension for submittal of the requested additional information.~~

3 ~~(3) A completeness determination shall not be necessary for, and the completeness determination~~
4 ~~provisions specified in Subparagraph (a)(2) of this Rule shall not apply to minor modifications~~
5 ~~submitted pursuant to 15A NCAC 02Q .0515.~~

6 ~~(4) For all permit application types, a completeness determination shall not prevent the Director from~~
7 ~~requesting additional information later in the review process if such information is necessary to~~
8 ~~properly evaluate the source, its air pollution abatement equipment, or the facility. If the applicant~~
9 ~~has not provided the requested additional information by the date specified in a written request for~~
10 ~~additional information, the Director shall cease processing the application until additional~~
11 ~~information is provided. The applicant may request a time extension for submittal of the requested~~
12 ~~additional information.~~

13 ~~(3) The Division shall complete the technical review of significant modifications received pursuant to~~
14 ~~15A NCAC 02Q .0516 in accordance with 40 CFR 70.7(e)(4)(ii).~~

15 ~~(4) The Division shall provide for public participation in accordance with 15A NCAC 02Q .0521. If a~~
16 ~~public hearing is requested and approved by the Director for a draft permit, it shall be held within~~
17 ~~45 days of the Director's decision to hold a public hearing.~~

18 ~~(5) The Director shall complete the review of the record and send the proposed permit to EPA and~~
19 ~~affected states in accordance with 15A NCAC 02Q .0522.~~

20 ~~(6) Final permit action shall be taken in accordance with 15A NCAC 02Q .0518.~~

21 (b) In addition to the schedule in Paragraph (a) of this Rule, the Division shall adhere to the following timelines when
22 processing applications for permit revisions:

23 (1) For minor modification applications received pursuant to 15A NCAC 02Q .0515, the Division shall
24 complete the review and take action on the permit application pursuant to 15A NCAC 02Q .0515(d)
25 and (e).

26 (2) The Division shall complete the technical review of significant modifications received pursuant to
27 15A NCAC 02Q .0516 in accordance with 40 CFR 70.7(e)(4)(ii). Within 270 calendar days of
28 receipt of a complete application for a significant permit modification pursuant to 15A NCAC 02Q
29 .0516, the Division shall complete the review of the application and either issue the modified permit,
30 deny the modified permit, or publish the modified permit for public notice and comment.

31 (3) For applications for permit revisions that are not minor modifications pursuant to 15A NCAC 02Q
32 .0515 or significant modifications pursuant to 15A NCAC 02Q .0516, the application shall be
33 reviewed pursuant to 15A NCAC 02Q .0514 or .0517, as applicable.

34 (c) The Division shall provide for public participation in accordance with 15A NCAC 02Q .0521. If a public hearing
35 is requested and approved by the Director for a draft permit, it shall be held within 45 days of the Director's decision
36 to hold a public hearing.

1 (d) The Director shall complete the review of the record and send the proposed permit to EPA and affected states in
2 accordance with 15A NCAC 02Q .0522.

3 (e) Final permit action shall be taken in accordance with 15A NCAC 02Q .0518.
4
5

6 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(10); 143-215.108;*

7 *Eff. February 1, 1995;*

8 *Amended Eff. July 1, 1998;*

9 *Readopted Eff. April 1, 2018;*

10 *Amended Eff. September 1, ~~2022~~, 2022;*

11 *Amended Eff. (Pending On the first day of a month that is 60 days after the Secretary of the*

12 *Department of Environmental Quality certifies to the Revisor of Statutes that the U.S. Environmental*

13 *Protection Agency has approved the amended rule into the North Carolina State Implementation*

14 *Plan, pursuant to S.L. 2023-134, Section 12.11, as amended by S.L. 2024-1, Section 4.13.)*
15
16