SECTION .0500 - PETITIONS FOR RULEMAKING

15A NCAC 02I .0501 FORM AND CONTENTS OF PETITION

(a) Any person wishing to request the adoption, amendment, or repeal of a rule of the Environmental Management Commission (hereinafter referred to as the Commission) shall make his request in a petition addressed to the Director of the appropriate division of the Department of Environment and Natural Resources, and a copy should also be sent to the Recording Clerk of the Commission:

Director
Division of Air Quality
1641 Mail Service Center
Raleigh, North Carolina 27699-1641

Director
Division of Water Quality
1617 Mail Service Center
Raleigh, North Carolina 27699-1617

Director
Division of Water Resources
1611 Mail Service Center
Raleigh, North Carolina 27699-1611

(b) The petition shall contain the following information:

(1) the text of the proposed rule(s) conforming to the Codifier of Rules' requirements for publication of proposed rules in the North Carolina Register;
(2) the statutory authority for the agency to promulgate the rule(s);
(3) a statement of the reasons for adoption of the proposed rule(s);
(4) a statement of the effect on existing rules or orders;
(5) copies of any documents and data supporting the proposed rule(s);
(6) a statement of the effect of the proposed rule(s) on existing practices in the area involved, including cost factors for persons affected by the proposed rule(s);
(7) a statement explaining the computation of the cost factors;
(8) a description, including the names and addresses, if known, of those most likely to be affected by the proposed rule(s); and
(9) the name(s) and address(es) of the petitioner(s).

(c) When petitions and supporting documents and data exceed 10 pages in length, 20 copies of the whole petition and any attachments shall be submitted.
(d) Petitions failing to contain the required information shall be returned by the Director on behalf of the Chairman.

History Note: Authority G.S. 143B-282; 150B-20;
Eff. April 1, 2003.

15A NCAC 02I .0502 REVIEW BY A COMMITTEE OF THE COMMISSION

(a) The Chairman shall refer complete petitions to the appropriate subject area committee of the Commission for review and recommended action. Copies of Petitions for Rulemaking shall be distributed to the Commission members when referred to a committee of the Commission.
(b) Within 10 days of the assignment of the complete petition, the chairman of the committee assigned to review a submitted petition for rulemaking shall announce the date of a meeting to consider the petition.
(c) At least 15 days before the committee meeting, notice of the committee meeting shall be sent to the petitioner, members of the Commission, and persons who have requested notice of petitions for rulemaking.
(d) The petitioner shall be afforded the opportunity to present the petition for rulemaking to the committee. The Director, through staff, may make a presentation to the committee.
(e) The Chairman of the committee shall allow one interested person to present the viewpoint of those who oppose initiating rulemaking. The Chairman of the committee may determine whether additional interested persons shall make oral

presentations before the committee. Interested persons must request the opportunity to make a presentation to the committee through the Director. The request shall:

(1) state the interest of the person;
(2) state the person's position on the petition for rulemaking; and
(3) be accompanied by supporting materials.

(f) During the committee's review, members of the Commission, other than committee members, who are present may participate as a member of the committee in discussions of the petition but may not vote on the recommended action on the petition.

History Note: *Authority G.S. 143B-282; 150B-20;*
Eff. April 1, 2003.

15A NCAC 02I .0503 PRESENTATION TO THE COMMISSION

(a) Petitions for Rulemaking, after review by the appropriate committee under 15A NCAC 02I .0502, shall be presented to the Environmental Management Commission for its consideration and determination at a regularly scheduled meeting of the Commission within 120 days following the date of referral of the petition to the appropriate committee. The Petition for Rulemaking and the committee's recommended action shall be presented through the committee chairman or other designated member of the committee during the business session of the Commission. Unless the Chairman of the Commission rules otherwise, discussion on the petition shall be limited to the members of the Commission, counsel to the Commission, and the Director.

(b) Within 120 days following referral of the petition to the appropriate committee, the Environmental Management Commission shall:

(1) initiate rulemaking proceedings in accordance with G.S. 150B-20 and notify the person(s) who submitted the petition of the decision in writing; or
(2) deny the petition in writing, stating the reason or reasons for the denial, and send the written denial to the person(s) who submitted the petition.

History Note: *Authority G.S. 143B-282; 150B-20;*
Eff. April 1, 2003.

15A NCAC 02I .0504 RECOURSE TO DENIAL OF PETITION

If the Environmental Management Commission denies the Petition for Rulemaking, the petitioner(s) may seek judicial review of the denial under G.S. 150B, Article 4.

History Note: *Authority G.S. 143B-282; 150B-20;*
Eff. April 1, 2003.