

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02H .0804

DEADLINE FOR RECEIPT: Friday, February 10, 2023

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

Related to the Fiscal Note: If the analysis of this amendment is based on the fiscal impact of adding certification requirements promulgated by the EPA, and the EPA's own website states that it "does not have any laboratory certification requirements for PFAS", how was the fiscal impact calculated and how was this in compliance with the APA?

In Paragraph (a), there is much repetitive language, for instance "shall obtain Certification for Parameter Methods used to generate data that will be reported by the client to the State in accordance with the rules of this Section". For clarity, can this Paragraph be consolidated in a way that preserves what it requires.

Paragraph (b), (c), and (d) need to be reworded with an active verb. Who is required to do what? Is the sentence in each stating "Analytical methods shall be determined from the sources listed in Rule .0805(a)(1) of this Section." necessary?

In the Subparagraphs of (a), why do the Subparagraphs start with capital letters? Unless it is a proper noun, all should be lower-case. This applies to Paragraphs (b), (c), and (d).

Do the sources listed in .0805(a)(1) have reliable methods for identifying and measuring the two certified organic parameters added to Paragraph (d)? It appears that the sources referenced do not. If so, why have these been added before these methods have been promulgated?

Please retype the rule accordingly and resubmit it to our office electronically.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: February 1, 2023

1 15A NCAC 02H .0804 is amended as published in 37:07 NCAC 538 as follows:

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3 **15A NCAC 02H .0804 PARAMETERS FOR WHICH CERTIFICATION MAY BE REQUESTED**

4 (a) Commercial Laboratories shall obtain Certification for Parameter Methods used to generate data that will be
5 reported by the client to the State in accordance with the rules of this Section. Municipal and Industrial Laboratories
6 shall obtain Certification for Parameter Methods used to generate data that will be reported to the State in accordance
7 with the rules of this Section. Commercial Laboratories shall obtain Certification for Field Parameter Methods used
8 to generate data that will be reported by the client to the State in accordance with the rules of this Section. Municipal
9 and Industrial laboratories shall obtain Certification for Field Parameter Methods used to generate data that will be
10 reported to the State in accordance with the rules of this Section.

11 (b) Inorganics: Each of the inorganic, physical characteristic, and microbiological analytes listed in this Paragraph
12 shall be considered a certifiable parameter. Analytical methods shall be determined from the sources listed in Rule
13 .0805(a)(1) of this Section. One or more analytical methods or Parameter Methods may be listed with a laboratory's
14 certified Parameters. Certifiable inorganic, physical characteristic, and microbiological Parameters are as follows:

- 15 (1) Acidity;
- 16 (2) Alkalinity;
- 17 (3) Biochemical Oxygen Demand;
- 18 (4) Bromide;
- 19 (5) Carbonaceous Biochemical Oxygen Demand;
- 20 (6) Chemical Oxygen Demand;
- 21 (7) Chloride;
- 22 (8) Chlorine, Free Available;
- 23 (9) Chlorine, Total Residual;
- 24 (10) Chlorophyll;
- 25 (11) Coliform, Fecal;
- 26 (12) Coliform, Total;
- 27 (13) Color;
- 28 (14) Conductivity/Specific Conductance;
- 29 (15) Cyanide;
- 30 (16) Dissolved Organic Carbon;
- 31 (17) Dissolved Oxygen;
- 32 (18) Enterococci;
- 33 (19) Escherichia Coliform (E. coli);
- 34 (20) Flash Point;
- 35 (21) Fluoride;
- 36 (22) Hardness, Total;
- 37 (23) Ignitability;

- 1 (24) Surfactants as Methylene Blue Active Surfactants;
- 2 (25) Nitrogen, Ammonia;
- 3 (26) Nitrogen, Nitrite plus Nitrate;
- 4 (27) Nitrogen, Nitrate;
- 5 (28) Nitrogen, Nitrite;
- 6 (29) Nitrogen, Total Kjeldahl;
- 7 (30) Oil and Grease;
- 8 (31) Orthophosphate;
- 9 (32) Paint Filter Liquids;
- 10 (33) pH;
- 11 (34) Phenols;
- 12 (35) Phosphorus, Total;
- 13 (36) Residue, Settleable;
- 14 (37) Residue, Total;
- 15 (38) Residue, Total Dissolved;
- 16 (39) Residue, Total Suspended;
- 17 (40) Residue, Volatile;
- 18 (41) Salinity;
- 19 (42) Salmonella;
- 20 (43) Silica;
- 21 (44) Sulfate;
- 22 (45) Sulfide;
- 23 (46) Sulfite;
- 24 (47) Temperature;
- 25 (48) Total Organic Carbon;
- 26 (49) Turbidity;
- 27 (50) Vector Attraction Reduction: Option 1;
- 28 (51) Vector Attraction Reduction: Option 2;
- 29 (52) Vector Attraction Reduction: Option 3;
- 30 (53) Vector Attraction Reduction: Option 4;
- 31 (54) Vector Attraction Reduction: Option 5;
- 32 (55) Vector Attraction Reduction: Option 6;
- 33 (56) Vector Attraction Reduction: Option 7;
- 34 (57) Vector Attraction Reduction: Option 8; and
- 35 (58) Vector Attraction Reduction: Option 12.

1 (c) Metals: Each of the metals listed in this Paragraph shall be considered a certifiable Parameter. One or more
2 Parameter Methods shall be listed with a laboratory's certified Parameters. Analytical methods shall be determined
3 from the sources listed in Rule .0805(a)(1) of this Section. Certifiable metals are as follows:

- 4 (1) Aluminum;
- 5 (2) Antimony;
- 6 (3) Arsenic;
- 7 (4) Barium;
- 8 (5) Beryllium;
- 9 (6) Boron;
- 10 (7) Cadmium;
- 11 (8) Calcium;
- 12 (9) Chromium, Hexavalent (Chromium VI);
- 13 (10) Chromium, Total;
- 14 (11) Chromium, Trivalent (Chromium III);
- 15 (12) Cobalt;
- 16 (13) Copper;
- 17 (14) Hardness, Total (Calcium + Magnesium);
- 18 (15) Iron;
- 19 (16) Lead;
- 20 (17) Lithium;
- 21 (18) Magnesium;
- 22 (19) Manganese;
- 23 (20) Mercury;
- 24 (21) Molybdenum;
- 25 (22) Nickel;
- 26 (23) Potassium;
- 27 (24) Phosphorus;
- 28 (25) Selenium;
- 29 (26) Silica;
- 30 (27) Silver;
- 31 (28) Sodium;
- 32 (29) Strontium;
- 33 (30) Thallium;
- 34 (31) Tin;
- 35 (32) Titanium;
- 36 (33) Vanadium; and
- 37 (34) Zinc.

1 (d) Organics: Each of the organic Parameters listed in this Paragraph shall be considered a certifiable Parameter. One
2 or more Parameter Methods shall be listed with a laboratory's certified Parameters. Analytical methods shall be
3 determined from the sources listed in Rule .0805(a)(1) of this Section. Certifiable organic Parameters are as follows:

- 4 (1) 1,2-Dibromoethane (EDB); 1,2-Dibromo-3-chloro-propane (DBCP); 1,2,3-Trichloropropane
5 (TCP);
- 6 (2) Acetonitrile;
- 7 (3) Acrolein, Acrylonitrile;
- 8 (4) Adsorbable Organic Halides;
- 9 (5) Base/Neutral and Acid Organics;
- 10 (6) Benzidines;
- 11 (7) Chlorinated Acid Herbicides;
- 12 (8) Chlorinated Hydrocarbons;
- 13 (9) Chlorinated Phenolics;
- 14 (10) Explosives;
- 15 (11) Extractable Petroleum Hydrocarbons;
- 16 (12) Haloethers;
- 17 (13) N-Methylcarbamates;
- 18 (14) Nitroaromatics and Isophorone;
- 19 (15) Nitrosamines;
- 20 (16) Nonhalogenated Volatile Organics;
- 21 (17) Organic Fluorine;
- 22 ~~(17)~~(18) Organochlorine Pesticides;
- 23 ~~(18)~~(19) Organophosphorus Pesticides;
- 24 (20) Per- and Polyfluoroalkyl Substances (PFAS);
- 25 ~~(19)~~(21) Phenols;
- 26 ~~(20)~~(22) Phthalate Esters;
- 27 ~~(21)~~(23) Polychlorinated Biphenyls;
- 28 ~~(22)~~(24) Polynuclear Aromatic Hydrocarbons;
- 29 ~~(23)~~(25) Purgeable Aromatics;
- 30 ~~(24)~~(26) Purgeable Halocarbons;
- 31 ~~(25)~~(27) Purgeable Organics;
- 32 ~~(26)~~(28) Total Organic Halides;
- 33 ~~(27)~~(29) Total Petroleum Hydrocarbons – Diesel Range Organics;
- 34 ~~(28)~~(30) Total Petroleum Hydrocarbons – Gasoline Range Organics; and
- 35 ~~(29)~~(31) Volatile Petroleum Hydrocarbons.

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

1 *Eff. February 1, 1976;*
2 *Amended Eff. November 2, 1992; December 1, 1984;*
3 *Temporary Amendment Eff. October 1, 2001;*
4 *Amended Eff. August 1, 2002;*
5 *Readopted Eff. July 1, 2019;*
6 *Amended Eff. March 1, 2023.*
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