

**15A NCAC 02B .0227 HAS BEEN AMENDED WITH CHANGES AS PUBLISHED IN 35:5 NCR 572-576 AS  
FOLLOWS:**

**15A NCAC 02B .0227 WATER QUALITY MANAGEMENT PLANS**

(a) In implementing the water quality standards to protect the "existing uses" [as defined by Rule .0202 of this Section] of the waters of the State or the water quality that supports those uses, the Commission shall develop water quality management plans on a priority basis to attain, maintain or enhance water quality throughout the State. Additional specific actions deemed necessary by the Commission to protect the water quality or the existing uses of the waters of the State shall be specified in Paragraph (b) of this Rule. These actions may include anything within the powers of the Commission, as set forth in G.S. ~~143-24~~ 143, Article 21 and G.S. 143B-282. The Commission may also consider local actions that have been taken to protect a waterbody in determining the appropriate protection options to be incorporated into the water quality management plan.

(b) All waters determined by the Commission to be protected by a water quality management plan are listed with specific actions either in Rules .0601 - .0608 of this Subchapter that address the Goose Creek watershed (Yadkin Pee-Dee River Basin) or as follows:

(1) The Lockwoods Folly River Area (Lumber River Basin), which includes all waters of the lower Lockwoods Folly River in an area extending north from the Intracoastal Waterway to a line extending from Genoes Point to Mullet Creek, shall be protected by the specific actions described in Parts (A) through (D) of this Subparagraph.

(A) New development activities within 575' of the mean high water line that require a Sedimentation Erosion Control Plan or a CAMA major development permit shall comply with the low density option of the coastal stormwater requirements as specified in 15A NCAC 02H .1005(3)(a).

(B) New or expanded NPDES permits shall be issued only for non-domestic, non-industrial process type discharges, such as non-industrial process cooling or seafood processing discharges. Pursuant to 15A NCAC 02H .0111, a public hearing shall be mandatory for any proposed (new or expanded) NPDES permit to this protected area.

(C) New or expanded marinas shall be located in upland basin areas.

(D) No dredge or fill activities shall be allowed if those activities would result in a reduction of the beds of "submerged aquatic vegetation habitat" or "shellfish producing habitat" that are defined in 15A NCAC 03I .0101, except for maintenance dredging, such as that required to maintain access to existing channels and facilities located within the protected area or maintenance dredging for activities such as agriculture.

(2) A part of the Cape Fear River (Cape Fear River Basin) comprised of a section of Index No.18-(71) from upstream mouth of Toomers Creek to a line across the river between Lilliput Creek and Snows Cut shall be protected by the Class SC Sw-standards as well as the following site-specific action: All new individual NPDES wastewater discharges and expansions of existing individual

NPDES wastewater discharges shall be required to provide treatment for oxygen consuming wastes as described in Parts (A) ~~through (C)~~ and (B) of this Subparagraph.

(A) Effluent limitations shall be as follows: BOD<sub>5</sub> = 5 mg/l, NH<sub>3</sub>-N = 1 mg/l and DO = 6 mg/l, or utilize site-specific best available technology on a case-by-case basis for industrial discharges in accordance with Rule .0406 (e) of this Subchapter.

(B) Seasonal effluent limits for oxygen consuming wastes shall be considered in accordance with Rule .0404 of this Subchapter.

~~(C) Any new or expanded permitted pollutant discharge of oxygen consuming waste shall not cause the dissolved oxygen of the receiving water to drop more than 0.1 mg/l below the modeled in stream dissolved oxygen at total permitted capacity for all discharges.~~

*History Note: Authority G.S. 143-214.1; 143-215.8A;*  
*Eff. October 1, 1995;*  
*Amended Eff. June 30, 2017; January 1, 1996;*  
*Readopted Eff. November 1, 2019;*  
*Amended Eff. July 1, 2021.*

1 **15A NCAC 02B .0311 HAS BEEN AMENDED AS PUBLISHED IN 35:5 NCR 572-576 AS FOLLOWS:**

2  
3 **15A NCAC 02B .0311 CAPE FEAR RIVER BASIN**

4 (a) Classifications assigned to the waters within the Cape Fear River Basin are set forth in the Cape Fear River  
5 Basin Classification Schedule, which may be inspected at the following places:

6 (1) the Internet at [https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-](https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification)  
7 [standards/river-basin-classification](https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification); and

8 (2) the following offices of the North Carolina Department of Environmental Quality:

9 (A) Winston-Salem Regional Office

10 450 West Hanes Mill Road

11 Winston-Salem, North Carolina;

12 (B) Fayetteville Regional Office

13 225 Green Street

14 Systel Building Suite 714

15 Fayetteville, North Carolina;

16 (C) Raleigh Regional Office

17 3800 Barrett Drive

18 Raleigh, North Carolina;

19 (D) Washington Regional Office

20 943 Washington Square Mall

21 Washington, North Carolina;

22 (E) Wilmington Regional Office

23 127 Cardinal Drive Extension

24 Wilmington, North Carolina; and

25 (F) Division of Water Resources

26 Central Office

27 512 North Salisbury Street

28 Raleigh, North Carolina.

29 (b) The Cape Fear River Basin Classification Schedule was amended effective:

30 (1) March 1, 1977;

31 (2) December 13, 1979;

32 (3) December 14, 1980;

33 (4) August 9, 1981;

34 (5) April 1, 1982;

35 (6) December 1, 1983;

36 (7) January 1, 1985;

37 (8) August 1, 1985;

38 (9) December 1, 1985;

- (10) February 1, 1986;
- (11) July 1, 1987;
- (12) October 1, 1987;
- (13) March 1, 1988;
- (14) August 1, 1990.
- (c) The Cape Fear River Basin Classification Schedule was amended effective June 1, 1988 as follows:
- (1) Cane Creek [Index No. 16-21-(1)] from source to a point 0.5 mile north of N.C. Hwy. 54 (Cane Reservoir Dam) including the Cane Creek Reservoir and all tributaries has been reclassified from Class WS-III to WS-I.
- (2) Morgan Creek [Index No. 16-41-1-(1)] to the University Lake dam including University Lake and all tributaries has been reclassified from Class WS-III to WS-I.
- (d) The Cape Fear River Basin Classification Schedule was amended effective July 1, 1988 by the reclassification of Crane Creek (Crains Creek) [Index No. 18-23-16-(1)] from source to mouth of Beaver Creek including all tributaries from C to WS-III.
- (e) The Cape Fear River Basin Classification Schedule was amended effective January 1, 1990 as follows:
- (1) Intracoastal Waterway (Index No. 18-87) from southern edge of White Oak River Basin to western end of Permuda Island (a line from Morris Landing to Atlantic Ocean), from the eastern mouth of Old Topsail Creek to the southwestern shore of Howe Creek and from the southwest mouth of Shinn Creek to channel marker No. 153 including all tributaries except the King Creek Restricted Area, Hardison Creek, Old Topsail Creek, Mill Creek, Futch Creek and Pages Creek were reclassified from Class SA to Class SA ORW.
- (2) Topsail Sound and Middle Sound ORW Area which includes all waters between the Barrier Islands and the Intracoastal Waterway located between a line running from the western most shore of Mason Inlet to the southwestern shore of Howe Creek and a line running from the western shore of New Topsail Inlet to the eastern mouth of Old Topsail Creek was reclassified from Class SA to Class SA ORW.
- (3) Masonboro Sound ORW Area which includes all waters between the Barrier Islands and the mainland from a line running from the southwest mouth of Shinn Creek at the Intracoastal Waterway to the southern shore of Masonboro Inlet and a line running from the Intracoastal Waterway Channel marker No. 153 to the southside of the Carolina Beach Inlet was reclassified from Class SA to Class SA ORW.
- (f) The Cape Fear River Basin Classification Schedule was amended effective January 1, 1990 as follows: Big Alamance Creek [Index No. 16-19-(1)] from source to Lake Mackintosh Dam including all tributaries has been reclassified from Class WS-III NSW to Class WS-II NSW.
- (g) The Cape Fear River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection

rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(h) The Cape Fear River Basin Classification Schedule was amended effective June 1, 1994 as follows:

(1) The Black River from its source to the Cape Fear River [Index Nos. 18-68-(0.5), 18-68-(3.5) and 18-65-(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW.

(2) The South River from Big Swamp to the Black River [Index Nos. 18-68-12-(0.5) and 18-68-12(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW.

(3) Six Runs Creek from Quewhiffle Swamp to the Black River [Index No. 18-68-2] was reclassified from Class C Sw to Class C Sw ORW.

(i) The Cape Fear River Basin Classification Schedule was amended effective September 1, 1994 with the reclassification of the Deep River [Index No. 17-(36.5)] from the Town of Gulf-Goldston water supply intake to US highway 421 including associated tributaries from Class C to Classes C, WS-IV and WS-IV CA.

(j) The Cape Fear River Basin Classification Schedule was amended effective August 1, 1998 with the revision to the primary classification for portions of the Deep River [Index No. 17-(28.5)] from Class WS-IV to Class WS-V, Deep River [Index No. 17-(41.5)] from Class WS-IV to Class C, and the Cape Fear River [Index 18-(10.5)] from Class WS-IV to Class WS-V.

(k) The Cape Fear River Basin Classification Schedule was amended effective April 1, 1999 with the reclassification of Buckhorn Creek (Harris Lake)[Index No. 18-7-(3)] from the backwaters of Harris Lake to the Dam at Harris Lake from Class C to Class WS-V.

(l) The Cape Fear River Basin Classification Schedule was amended effective April 1, 1999 with the reclassification of the Deep River [Index No. 17-(4)] from the dam at Oakdale-Cotton Mills, Inc. to the dam at Randleman Reservoir (located 1.6 mile upstream of U.S. Hwy 220 Business), and including tributaries from Class C and Class B to Class WS-IV and Class WS-IV & B. Streams within the Randleman Reservoir Critical Area have been reclassified to WS-IV CA. The Critical Area for a WS-IV reservoir is defined as 0.5 mile and draining to the normal pool elevation of the reservoir. All waters within the Randleman Reservoir Water Supply Watershed are within a designated Critical Water Supply Watershed and are subject to a special management strategy specified in Rule .0248 of this Subchapter.

(m) The Cape Fear River Basin Classification Schedule was amended effective August 1, 2002 as follows:

(1) Mill Creek [Index Nos. 18-23-11-(1), 18-23-11-(2), 18-23-11-3, 18-23-11-(5)] from its source to the Little River, including all tributaries was reclassified from Class WS-III NSW and Class WS-III B NSW to Class WS-III NSW HQW@ and Class WS-III B NSW HQW@.

(2) McDeed's Creek [Index Nos. 18-23-11-4, 18-23-11-4-1] from its source to Mill Creek, including all tributaries was reclassified from Class WS III NSW and Class WS-III B NSW to Class WS-III NSW HQW@ and Class WS-III B NSW HQW@.

The "@" symbol as used in this Paragraph means that if the governing municipality has deemed that a development is covered under a "5/70 provision" as described in Rule .0215(3)(b)(i)(E) of this Subchapter, then that development is not subject to the stormwater requirements as described in 15A NCAC 02H .1006.

(n) The Cape Fear River Basin Classification Schedule was amended effective November 1, 2004 as follows:

- (1) the portion of Rocky River [Index Number 17-43-(1)] from a point 0.3 mile upstream of Town of Siler City upper reservoir dam to a point 0.3 mile downstream of Lacy Creek from WS-III to WS-III CA.
- (2) the portion of Rocky River [Index Number 17-43-(8)] from dam at lower water supply reservoir for Town of Siler City to a point 65 feet below dam (site of proposed dam) from C to WS-III CA.
- (3) the portion of Mud Lick Creek (Index No. 17-43-6) from a point 0.4 mile upstream of Chatham County SR 1355 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.
- (4) the portion of Lacy Creek (17-43-7) from a point 0.6 mile downstream of Chatham County SR 1362 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.

(o) The Cape Fear River Basin Classification Schedule was amended effective November 1, 2007 with the reclassifications listed below, and the North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of these UWLs.

- (1) Military Ocean Terminal Sunny Point Pools, all on the eastern shore of the Cape Fear River [Index No. 18-(71)] were reclassified to Class WL UWL.
- (2) Salters Lake Bay near Salters Lake [Index No. 18-44-4] was reclassified to Class WL UWL.
- (3) Jones Lake Bay near Jones Lake [Index No. 18-46-7-1] was reclassified to Class WL UWL.
- (4) Weymouth Woods Sandhill Seep near Mill Creek [18-23-11-(1)] was reclassified to Class UWL.
- (5) Fly Trap Savanna near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL.
- (6) Lily Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL.
- (7) Grassy Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL.
- (8) The Neck Savanna near Sandy Run Swamp [Index No. 18-74-33-2] was reclassified to Class WL UWL.
- (9) Bower's Bog near Mill Creek [Index No. 18-23-11-(1)] was reclassified to Class WL UWL.
- (10) Bushy Lake near Turnbull Creek [Index No. 18-46] was reclassified to Class WL UWL.

(p) The Cape Fear River Basin Classification Schedule was amended effective January 1, 2009 as follows:

- (1) the portion of Cape Fear River [Index No. 18-(26)] (including tributaries) from Smithfield Packing Company's intake, located approximately 2 miles upstream of County Road 1316, to a point 0.5 miles upstream of Smithfield Packing Company's intake from Class C to Class WS-IV CA.
- (2) the portion of Cape Fear River [Index No.18-(26)] (including tributaries) from a point 0.5 miles upstream of Smithfield Packing Company's intake to a point 1 mile upstream of Grays Creek from Class C to Class WS-IV.

(q) The Cape Fear River Basin Classification Schedule was amended effective August 11, 2009 with the reclassification of all Class C NSW waters and all Class B NSW waters upstream of the dam at B. Everett Jordan

1 Reservoir from Class C NSW and Class B NSW to Class WS-V NSW and Class WS-V & B NSW, respectively. All  
2 waters within the B. Everett Jordan Reservoir Watershed are within a designated Critical Water Supply Watershed  
3 and are subject to a special management strategy specified in Rules .0262 through .0273 of this Subchapter.

4 (r) The Cape Fear River Basin Classification Schedule was amended effective September 1, 2009 with the  
5 reclassification of a portion of the Haw River [Index No. 16-(28.5)] from the Town of Pittsboro water supply intake,  
6 which is located approximately 0.15 mile west of U.S. 15/501, to a point 0.5 mile upstream of the Town of Pittsboro  
7 water supply intake from Class WS-IV to Class WS-IV CA.

8 (s) The Cape Fear River Basin Classification Schedule was amended effective March 1, 2012 with the  
9 reclassification of the portion of the Haw River [Index No. 16-(1)] from the City of Greensboro's intake, located  
10 approximately 650 feet upstream of Guilford County 2712, to a point 0.5 miles upstream of the intake from Class  
11 WS-V NSW to Class WS-IV CA NSW, and the portion of the Haw River [Index No. 16-(1)] from a point 0.5 miles  
12 upstream of the intake to a point 0.6 miles downstream of U.S. Route 29 from Class WS-V NSW to Class WS-IV  
13 NSW.

14 ~~(t) The Cape Fear River Basin Classification Schedule was amended effective June 30, 2017 with the~~  
15 ~~reclassification of a section of 18 (71) from upstream mouth of Toomers Creek to a line across the river between~~  
16 ~~Lilliput Creek and Snows Cut from Class SC to Class SC Sw. A site specific management strategy is outlined in~~  
17 ~~15A NCAC 02B .0227.~~

18 ~~(u)~~(t) The Cape Fear River Basin Classification Schedule was amended effective September 1, 2019 with the  
19 reclassification of a portion of Sandy Creek [Index No. 17-16-(1)] (including tributaries) from a point 0.4 mile  
20 upstream of SR-2481 to a point 0.6 mile upstream of N.C. Hwy 22 from WS-III to WS-III CA. The reclassification  
21 resulted in an updated representation of the water supply watershed for the Sandy Creek reservoir.

22  
23 *History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);*  
24 *Eff. February 1, 1976;*  
25 *Amended Eff. June 30, 2017; March 1, 2012; September 1, 2009; August 11, 2009; January 1,*  
26 *2009; November 1, 2007; November 1, 2004; August 1, 2002; April 1, 1999; August 1, 1998;*  
27 *September 1, 1994; June 1, 1994; August 3, 1992; August 1, 1990;*  
28 *Readopted Eff. November 1, 2019;*  
29 *Amended Eff. July 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D

**DEADLINE FOR RECEIPT: June 10, 2021**

**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 call our office to inquire concerning the staff recommendation.

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

*For lists, please remember to make each item in the list a complete sentence beginning with a capitalized word and ending with a period or beginning with a lowercase word and ending with a semicolon.*

*Throughout 02D, what are Tiers 1, 2, 3, and 4? I see these terms are used in the CFRs as well. Please make sure the definition is incorporated somewhere in these rules.*

*What is the "closed landfill subcategory?" Where is this "subcategory" established?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder  
Commission Counsel  
Date submitted to agency: May 27, 2021



1 15A NCAC 02D .1701 is amended as published in 35:16 NCR 1800 as follows:

2  
3 **SECTION .1700 - MUNICIPAL SOLID WASTE LANDFILLS**

4  
5 **15A NCAC 02D .1701 DEFINITIONS**

6 The definitions in 40 CFR ~~60.751~~60.41f apply to this Section.

7  
8 *History Note: Authority G.S. 143-215.3(a)(1);*

9 *Eff. July 1, 1998;*

10 *Readopted Eff. October 1, ~~2020~~ 2020;*

11 *Amended Eff. July 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1702

**DEADLINE FOR RECEIPT: June 10, 2021**

**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 call our office to inquire concerning the staff recommendation.

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

*At line 4, please spell out "MSW" the first time you use the abbreviation, like this: "Municipal Solid Waste (MSW)."*

*In (b), how does the Commission determine whether a change is "solely" to comply with an emission standard?*

*Please review Paragraphs (c), (d), and (e). These Paragraphs repeat the contents of 40 CFR 60.31f(c), (d), and (e). Why is this necessary? If you need this information in rule, please consider incorporating it by reference. The standard incorporation language is: "[Document name] is incorporated by reference, [including/excluding] subsequent amendments and editions. This document may be accessed at [web address] at [no cost/amount]."*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder  
Commission Counsel  
Date submitted to agency: May 27, 2021

1 15A NCAC 02D .1702 is amended as published 35:16 NCR 1800 as follows:

2  
3 **15A NCAC 02D .1702 APPLICABILITY**

4 (a) This Section applies to each existing MSW landfill that accepted waste since November 8, 1987 and that  
5 commenced construction, reconstruction, or modification on or before July 17, 2014.

6 ~~All existing MSW landfills that meet the following conditions are subject to this Section:~~

7 (1) ~~The landfill has accepted waste at any time since November 8, 1987, or has additional permitted~~  
8 ~~capacity available for future waste deposition and has not been documented by the Division as being~~  
9 ~~permanently closed; and~~

10 (2) ~~The landfill was in operation, or construction, reconstruction, or modification was commenced~~  
11 ~~before July 17, 2014.~~

12 (b) Physical or operational changes made to an existing MSW landfill solely to comply with an emission standard  
13 under this Section are not considered a modification or reconstruction, and do not subject an existing MSW landfill to  
14 the requirements of 40 CFR 60, Subpart XXX or 15A NCAC 02D .0524.

15 (c) For purposes of obtaining an operating permit pursuant to Title V of the Clean Air Act, the owner or operator of  
16 an MSW landfill subject to 40 CFR Part 60, Subpart Cf with a design capacity less than 2.5 million megagrams or 2.5  
17 million cubic meters shall not subject to the requirement to obtain an operating permit for the landfill pursuant to 40  
18 CFR Part 70 or 71 unless the landfill is otherwise subject to either 40 CFR Part 70 or 71. For purposes of submitting  
19 a timely application for an operating permit pursuant to 40 CFR Part 70 or 71, the owner or operator of an MSW  
20 landfill subject to 40 CFR Part 60, Subpart Cf with a design capacity greater than or equal to 2.5 million megagrams  
21 and 2.5 million cubic meters on the effective date of EPA approval of the state's program pursuant to Section 111(d)  
22 of the Clean Air Act, and not otherwise subject to either 40 CFR Part 70 or 71, becomes subject to the requirements  
23 of 40 CFR 70.5(a)(1)(i) or 40 CFR 71.5(a)(1)(i) within 90 days after the effective date of such Section 111(d) program  
24 approval, even if the design capacity report is submitted earlier.

25 (d) When an MSW landfill subject to 40 CFR 60, Subpart Cf is closed as defined in this Section, the owner or operator  
26 shall no longer be subject to the requirement to maintain an operating permit pursuant to 40 CFR Part 70 or 71 for the  
27 landfill if the landfill is not otherwise subject to the requirements of either 40 CFR Part 70 or 71 and if either of the  
28 following conditions are met:

29 (1) The landfill was never subject to the requirement to install and operate a gas collection and control  
30 system pursuant to 40 CFR 60.33f(f); or

31 (2) The landfill meets the conditions for control system removal specified in 40 CFR 60.33f(f).

32 (e) When an MSW landfill subject to 40 CFR Part 60, Subpart Cf is in the closed landfill subcategory, the owner or  
33 operator shall not subject to the reports of 40 CFR Part 60, Subpart Cf, provided the owner or operator submitted these  
34 reports pursuant to the provisions of 40 CFR Part 60, Subpart WWW, 40 CFR Part 62, Subpart GGG, or this Section  
35 on or before July 17, 2014, as follows:

36 (1) Initial design capacity report specified in 40 CFR 60.38f(a);

- 1        (2) Initial or subsequent NMOC emission rate report specified in 40 CFR 60.38f(c), provided that the  
2        most recent NMOC emission rate report indicated the NMOC emissions were below 50 megagrams  
3        per year;  
4        (3) Collection and control system design plan specified in 40 CFR 60.38f(d);  
5        (4) Closure report specified in 40 CFR 60.38f(f);  
6        (5) Equipment removal report specified in 40 CFR 60.38f(g);  
7        (6) Initial annual report specified in 40 CFR 60.38f(h); and  
8        (7) Initial performance test report in 40 CFR 60.38f(i).

9  
10    *History Note: Authority 143-215.3(a)(1); 143-215.107(a)(5); 143-215.107(a)(10);*  
11        *Eff. July 1, 1998;*  
12        *Readopted Eff. October 1, ~~2020~~ 2020;*  
13        *Amended Eff. July 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1703

**DEADLINE FOR RECEIPT: June 10, 2021**

**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 call our office to inquire concerning the staff recommendation.

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

*In (a), please put parentheses around the letter "a" to label the Paragraph.*

*In (a)(1), consider whether the sentence would read better by deleting "has" and "at any time." Please also remove the comma after "1987."*

*At line 25, should "start up" be "start-up" or simply "start?"*

*In (c)(1), 40 CFR 60.37f(d) applies to devices other than non-enclosed flares. I do not read (d) as an exception. Please review and clarify.*

*In (c)(2), line 28, should this read "in compliance with this Rule?"*

*Please re-word (c)(2)(B). As written, this sets a requirement for the CFR. Consider: "Control devices shall be monitored in accordance with the operating parameters in 40 CFR 60.37f."*

*In (c)(2)(C), please use active voice by saying who shall do what.*

*Just to be sure, on page 3 lines 6, 8, and 10 did you mean "and" or "or?"*

*On page 3, line 13, the sentence beginning with "The landfill..." repeats 40 CFR 60.38f(a). Why is this necessary?*

*In (d)(1), line 19, is it necessary to say "that was commenced after July 17, 2014" since that is part of the definition of "modification."*

*At line 22, you refer to "this subpart." What are you referring to? The definition? Is it necessary to refer back to the definition again since definition already applies?*

*On page 4, do you need to refer to "Subparagraph (e)(1)? (e)(1)(A) is already a division under (e)(1) so the connection is established based on the formatting of the Rule.*

Ashley Snyder  
Commission Counsel  
Date submitted to agency: May 27, 2021

*In (e)(2) and (3), were the changes made post-publication made in response to public comment?*

*In (f)(2), is it necessary to say “a minimum of?” All rules set minimum requirements.*

*In (f)(4), please delete the reference to 40 CFR 60.41f. The definitions already apply because of Rule .1701 of this Section.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder  
Commission Counsel  
Date submitted to agency: May 27, 2021

1 15A NCAC 02D .1703 is amended with changes as published 35:16 NCR 1801 as follows:

3 **15A NCAC 02D .1703 EMISSION STANDARDS**

4 a) ~~Any MSW landfill subject to this Section and meeting the following two conditions shall meet the gas collection~~  
5 ~~and control requirements of Paragraph (b) of this Rule. Any MSW landfill subject to this Section and having a design~~  
6 ~~capacity greater than or equal to 2.5 million megagrams by mass and 2.5 million cubic meters by volume shall be~~  
7 ~~required to collect and control MSW landfill emissions if the following conditions apply:~~

8 (1) ~~The landfill has a design capacity greater than or equal to 2.75 million tons and 2.5 million cubic~~  
9 ~~meters. The owner or operator of the landfill may calculate the design capacity in either tons or~~  
10 ~~cubic meters for comparison with the exemption values. Any density conversion shall be~~  
11 ~~documented and submitted along with the initial reporting requirements of 15A NCAC 02D~~  
12 ~~.1708(a); and The landfill has accepted waste at any time since November 8, 1987, or has additional~~  
13 ~~design capacity available for future waste deposition;~~

14 (2) ~~The landfill has a non-methane organic compound (NMOC) emission rate of 55 tons per year or~~  
15 ~~more. The NMOC emission rate shall be calculated by following the procedures outlined in 40 CFR~~  
16 ~~60.754. The landfill commenced construction, reconstruction, or modification on or before July 17,~~  
17 ~~2014;~~

18 (3) ~~The landfill has an NMOC emission rate greater than or equal to 34 megagrams per year or Tier 4~~  
19 ~~surface emissions monitoring shows a surface emission concentration of 500 parts per million~~  
20 ~~methane or greater, and~~

21 (4) ~~The landfill is in the closed landfill subcategory and has an NMOC emission rate greater than or~~  
22 ~~equal to 50 megagrams per year or Tier 4 surface emissions monitoring shows a surface emission~~  
23 ~~concentration of 500 parts per million methane or greater.~~

24 (b) Each owner or operator of a MSW landfill meeting the conditions of Paragraph (a) of this Rule ~~shall:~~ shall install  
25 and start up a collection and control system that captures the gas within the landfill within 30 months after:

26 (1) ~~submit to the Director a site specific design plan for the gas collection and control system that meets~~  
27 ~~the requirements of 40 CFR 60.752(b)(2)(i);~~

28 (2) ~~install a gas collection system that meets the requirements of 40 CFR 60.752(b)(2)(ii); and~~

29 (3) ~~control the collected emissions of MSW landfill gas through the use of one or more of the following~~  
30 ~~control options:~~

31 (A) ~~An open flare designed and operated in accordance with the parameters established in 40~~  
32 ~~CFR 60.18;~~

33 (B) ~~A control system designed and operated to reduce NMOC by 98 weight percent;~~

34 (C) ~~An enclosed combustor designed and operated to reduce the outlet NMOC concentration~~  
35 ~~to 20 parts per million as hexane by volume, on a dry basis at three percent oxygen, or less;~~

36 ~~or~~

(D) ~~A treatment system that processes the collected gas for subsequent sale or use in accordance with 40 CFR 60.752(b)(2)(iii)(C).~~

(1) the first annual report in which the NMOC emission rate equals or exceeds 34 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 34 megagrams per year, as specified in 40 CFR 60.38f(d)(4); or

(2) the first annual NMOC emission rate report for a landfill in the closed landfill subcategory in which the NMOC emission rate equals or exceeds 50 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 50 megagrams per year, as specified in 40 CFR 60.38f(d)(4); or

(3) the most recent NMOC emission rate report in which the NMOC emission rate equals or exceeds 34 megagrams per year based on Tier 2, if the Tier 4 surface emissions monitoring shows a surface methane emission concentration of 500 parts per million methane or greater as specified in 40 CFR 60.38f(d)(4)(iii).

~~(e) The gas collection and control system required by this Rule may be capped or removed provided that all the conditions of 40 CFR 60.752(b)(2)(v)(A), (B), and (C) are met.~~

(c) Each owner or operator of a MSW landfill meeting the conditions of Paragraph (a) of this Rule shall control the gas collected from within the landfill through the use of control devices meeting the following requirements, except as provided in 40 CFR 60.24:

(1) A non-enclosed flare designed and operated in accordance with the parameters established in 40 CFR 60.18 except as noted in 40 CFR 60.37f(d); or

(2) A control system designed and operated to reduce NMOC by 98 weight percent; or when an enclosed combustion device is used for control, to either reduce NMOC by 98 weight percent or reduce the outlet NMOC concentration to less than 20 parts per million by volume, dry basis as hexane at three percent oxygen or less. The reduction efficiency or concentration in parts per million by volume shall be established by an initial performance test to be completed no later than 180 days after the initial startup of the approved control system using the test methods specified in 40 CFR 60.35f(d). The performance test is not required for boilers and process heaters with design heat input capacities equal to or greater than 44 megawatts that burn landfill gas for compliance with this Rule.

(A) If a boiler or process heater is used as the control device, the landfill gas stream shall be introduced into the flame zone;

(B) The control device shall be operated within the parameter ranges established during the initial or most recent performance test. The operating parameters to be monitored shall be specified in 40 CFR 60.37f;

(C) For the closed landfill subcategory, the initial or most recent performance test conducted to comply with 40 CFR Part 60, Subpart WWW; 40 CFR Part 62, Subpart GGG; or 40 CFR Part 60, Subpart Cc on or before July 17, 2014; shall be sufficient for compliance with this 40 CFR Part, Subpart Cf;



(3) Route the collected gas to a treatment system that processes the collected gas for subsequent sale or beneficial use such as fuel for combustion, production of vehicle fuel, production of high-Btu gas for pipeline injection, or use as a raw material in a chemical manufacturing process. Venting of treated landfill gas to the ambient air is not allowed. If the treated landfill gas cannot be routed for subsequent sale or beneficial use, then the treated landfill gas shall be controlled pursuant to either Subparagraph (c)(1) or (2) of this Rule;

(4) All emissions from any atmospheric vent from the gas treatment system are subject to the requirements of Paragraph (b) or (c) of this Rule. For purposes of this Subparagraph, atmospheric vents located on the condensate storage tank are not part of the treatment system and are exempt from the requirements of Paragraph (b) or (c) of this Rule.

(d) Each owner or operator of a MSW landfill having a design capacity less than 2.5 million megagrams by mass or 2.5 million cubic meters by volume shall submit an initial design capacity report to the Division as provided in 40 CFR 60.38f(a). The landfill may calculate design capacity in either megagrams or cubic meters for comparison with the exemption values. Any density conversions shall be documented and submitted with the report. Submittal of the initial design capacity report fulfills the requirements of this Rule, except as provided in Subparagraphs (d)(1) and (2) of this Rule, as follows:

(1) The owner or operator shall submit an amended design capacity report as provided in 40 CFR 60.38f(b). If the design capacity increase is the result of a modification, as defined in 15A NCAC 02D .1701, that was commenced after July 17, 2014, then the landfill becomes subject to 40 CFR Part 60 Subpart XXX instead of 40 CFR Part 60 Subpart Cf. If the design capacity increase is the result of a change in operating practices, density, or some other change that is not a modification as defined in this subpart, then the landfill remains subject to Subpart Cf; and

(2) When an increase in the maximum design capacity of a landfill with an initial design capacity less than 2.5 million megagrams or 2.5 million cubic meters results in a revised maximum design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters, the owner or operator shall comply with Paragraph (e) of this Rule.

(e) Each owner or operator of an MSW landfill having a design capacity equal to or greater than 2.5 million megagrams and 2.5 million cubic meters shall either install a collection and control system as provided in Paragraphs (b) and (c) of this Rule or calculate an initial NMOC emission rate for the landfill using the procedures specified in 40 CFR 60.35f(a). The NMOC emission rate shall be recalculated annually, except as provided in 40 CFR 60.38f(c)(3), as follows:

(1) If the calculated NMOC emission rate is less than 34 megagrams per year, the owner or operator shall submit an annual NMOC emission rate report according to 40 CFR 60.38f(c), and recalculate the NMOC emission rate annually using the procedures specified in 40 CFR 60.35f(a) until such time as the calculated NMOC emission rate is equal to or greater than 34 megagrams per year, or the landfill is closed. This annual NMOC emission rate reporting requirement shall not apply to the facilities that elected to submit their reports as provided in 40 CFR 60.38f(c)(3):

- (A) if the calculated NMOC emission rate, upon initial calculation or annual recalculation required in Subparagraph (e)(1) of this Rule, is equal to or greater than 34 megagrams per year, the owner or operator shall either: Comply with Paragraphs (b) and (c) of this Rule; calculate NMOC emissions using the next higher tier in 40 CFR 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in 40 CFR 60.35f(a)(6);
- (B) if the landfill is permanently closed, a closure report shall be submitted to the Division as provided in 40 CFR 60.38f(f), except for exemption allowed pursuant to 40 CFR 60.31f(e)(4); and
- (C) for the closed landfill subcategory, if the most recently calculated NMOC emission rate is equal to or greater than 50 megagrams per year, the owner or operator shall either: submit a gas collection and control system design plan as specified in 40 CFR 60.38f(d), except for exemptions allowed pursuant to 40 CFR 60.31f(e)(3), and install a collection and control system as provided in Paragraphs (b) and (c) of this Rule; calculate NMOC emissions using the next higher tier in 40 CFR 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in 40 CFR 60.35f(a)(6);
- (2) If the calculated NMOC emission rate is equal to or greater than 34 megagrams per year using Tier 1, 2, or 3 procedures, the owner or operator shall either: submit a collection and control system design plan prepared by a professional engineer to the Division within one year as specified in 40 CFR 60.38f(d), except for exemptions allowed in 40 CFR 60.31f(e)(3); calculate NMOC emissions using a higher tier in 40 CFR 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in ~~40 CFR 60.35f(a)(6);~~ 40 CFR 60.35f(a)(6). Submitted design plans shall be reviewed by the Division pursuant to the procedures in 40 CFR 60.38f(d)(5) and (6); and
- (3) For the closed landfill subcategory, if the calculated NMOC emission rate is equal to or greater than 50 megagrams per year using Tier 1, 2, or 3 procedures, the owner or operator shall either: submit a collection and control system design plan as specified in 40 CFR 60.38f(d), except for exemptions allowed pursuant to 40 CFR 60.31f(e)(3); calculate NMOC emissions using a higher tier in 40 CFR 60.35f; or conduct a surface emission monitoring demonstration using the procedures specified in 40 CFR 60.35f(a)(6). Submitted design plans shall be reviewed by the Division pursuant to the procedures in 40 CFR 60.38f(d)(5) and (6).
- (f) The collection and control system may be capped, removed, or decommissioned if the following criteria are met:
- (1) The landfill is a closed landfill as defined in 40 CFR 60.41f. A closure report shall be submitted to the Division as provided in 15A NCAC 02D .1708(f);
- (2) The collection and control system has been in operation a minimum of 15 years or the landfill owner or operator demonstrates that the GCCS will be unable to operate for 15 years due to declining gas flow;

1       (3) Following the procedures specified in 40 CFR 60.35f(b), the calculated NMOC emission rate at the  
2       landfill is less than 34 megagrams per year on three successive test dates. The test dates shall be no  
3       less than 90 days apart, and no more than 180 days apart; and

4       (4) For the closed landfill subcategory as defined in 40 CFR 60.41f, following the procedures specified  
5       in 40 CFR 60.35f(b), the calculated NMOC emission rate at the landfill is less than 50 megagrams  
6       per year on three successive test dates. The test dates shall be no less than 90 days apart, and no  
7       more than 180 days apart.

8  
9       *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 143-215.107(a)(10);*  
10       *Eff. July 1, 1998;*  
11       *Amended Eff. July 1, 2000;*  
12       *Readopted Eff. October 1, ~~2020~~ 2020;*  
13       *Amended Eff. July 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1704

**DEADLINE FOR RECEIPT: June 10, 2021**

**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 call our office to inquire concerning the staff recommendation.

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

*At line 5, when you say "as applicable," that is determined by the language in 40 CFR 60.35f, correct?*

*Were the changes made post-publication made in response to public comment?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder  
Commission Counsel  
Date submitted to agency: May 27, 2021

1 15A NCAC 02D .1704 is amended with changes as published 35:16 NCR 1803 as follows:

2  
3 **15A NCAC 02D .1704 TEST METHODS AND PROCEDURES**

4 The MSW landfill NMOC emission rate shall be ~~calculated~~ calculated, or a surface emission monitoring demonstration  
5 be conducted, by following the procedures in 40 CFR ~~60.754~~, 60.35f, as applicable, ~~in order~~ to determine whether the  
6 landfill meets the conditions of 15A NCAC 02D ~~.1703(a)(2)~~, .1703(a)(3) or (4). The owner or operator shall submit  
7 reports following the procedures pursuant to 60.38f(j).

8  
9 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.66; 143-215.107(a)(5); 143-215.107(a)(10);*

10 *Eff. July 1, 1998;*

11 *Readopted Eff. October 1, ~~2020~~ 2020;*

12 *Amended Eff. July 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1705

**DEADLINE FOR RECEIPT: June 10, 2021**

**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 call our office to inquire concerning the staff recommendation.

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

*In (2)(a), did you intend to reference all of 40 CFR 60.48f(h) instead of just (h)(1)?*

*In (2)(b), define "acceptable pressure limits." How is this determined? Is it up to the owner or operator?*

*In (3), line 24, please delete or define "significantly."*

*In (3), lines 25-25, what is the "criteria listed above?" Please consider re-wording (3) so that this is clearer. Consider: "...shall be submitted to the Division for approval. To be approved, the demonstration shall include supporting data demonstrating that the elevated parameter..."*

*In (4), line 31, did you intend to refer to 40 CFR 60.36f(c)?*

*On page 2, lines 2-3, please define "dangerous areas."*

*On page 2, line 3, do you mean "may" or "shall?" If you mean "may," how is this determination made?*

*In (8), line 21, please use "shall not" instead of "cannot."*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder  
Commission Counsel  
Date submitted to agency: May 27, 2021

1 15A NCAC 02D .1705 is amended as published 35:16 NCR 1804 as follows:

2  
3 **15A NCAC 02D .1705 OPERATIONAL STANDARDS**

4 The owner and operator of a MSW landfill required to install a landfill gas collection and control system to comply  
5 with 15A NCAC 02D .1703(b) and (c) shall:

- 6 (1) operate the collection system ~~in accordance with 40 CFR 60.753(a)~~; such that gas is collected from  
7 each area, cell, or group of cells in the MSW landfill in which solid waste has been in place for:  
8 (a) five years or more if active; or  
9 (b) two years or more if closed or at final grade;
- 10 (2) operate the collection system with negative pressure at each wellhead ~~in accordance with 40 CFR~~  
11 ~~60.753(b)~~; except under the following conditions:  
12 (a) for a fire or increased well temperature, the owner or operator shall record instances when  
13 positive pressure occurs in efforts to avoid a fire. These records shall be submitted with the  
14 annual reports as provided in 40 CFR 60.38f(h)(1);  
15 (b) for the use of a geomembrane or synthetic cover, the owner or operator shall develop  
16 acceptable pressure limits in the design plan; and  
17 (c) for a decommissioned well, a well may experience a static positive pressure after shut down  
18 to accommodate for declining flows. All design changes shall be approved by the Division  
19 as specified in 40 CFR 60.38f(d);
- 20 (3) operate each interior wellhead in the collection system ~~in accordance with 40 CFR 60.753(e)~~; with  
21 a landfill gas temperature less than 55 degrees Celsius (131 degrees Fahrenheit). The owner or  
22 operator may establish a higher operating temperature value at a particular well. A higher operating  
23 value demonstration shall be submitted to the Division for approval and shall include supporting  
24 data demonstrating that the elevated parameter neither causes fires nor significantly inhibits  
25 anaerobic decomposition by killing methanogens. The demonstration shall satisfy both criteria listed  
26 above in order to be approved;
- 27 (4) operate the collection system so that the methane concentration is less than 500 parts per million  
28 above background at the surface of the landfill. To determine if this level is exceeded, the owner  
29 and operator ~~shall follow the procedures given in 40 CFR 60.753(d)~~; shall conduct surface testing  
30 using an organic vapor analyzer, flame ionization detector, or other portable monitor meeting the  
31 specifications provided in 40 CFR 60.36f(d). The owner or operator shall conduct surface testing  
32 around the perimeter of the collection area and along a pattern that traverses the landfill at no more  
33 than 30-meter intervals and where visual observations indicate elevated concentrations of landfill  
34 gas, such as distressed vegetation and cracks or seeps in the cover and all cover penetrations. The  
35 owner or operator shall monitor any openings that are within an area of the landfill where waste has  
36 been placed and a gas collection system is required. The owner or operator may establish an  
37 alternative traversing pattern that ensures equivalent coverage. A surface monitoring design plan

- 1 shall be developed that includes a topographical map with the monitoring route and the rationale for  
2 any site-specific deviations from the 30-meter intervals. Areas with steep slopes or other dangerous  
3 areas may be excluded from the surface testing;
- 4 (5) operate the collection system such that all collected gases are vented to a control system designed  
5 and operated in compliance with ~~15A NCAC 02D .1703(b)(3)~~, 40 CFR 60.33f(c). In the event that  
6 the gas collection and control system is ~~inoperable~~, ~~measures shall be taken as outlined in 40 CFR~~  
7 ~~60.753(e); not operating~~, the gas mover system shall be shut down and all valves in the collection  
8 and control system contributing to venting of the gas to the atmosphere shall be closed within one  
9 hour of the collection or control system not operating;
- 10 (6) operate the control system at all times when the collected gas is routed to the ~~control~~ system;
- 11 (7) ~~take corrective action as specified in 40 CFR 60.755(e) if monitoring demonstrates that the operation~~  
12 ~~standards and requirements of Items (2), (3), and (4) of this Rule are not met. If the required~~  
13 ~~corrective actions are taken, the emissions monitored shall not be considered a violation of the~~  
14 ~~operational standards of this Rule. if monitoring demonstrates that the operational requirements in~~  
15 Item (2), (3), or (4) of this Rule are not met, corrective action shall be taken as specified in 40 CFR  
16 60.36f(a)(3) and (a)(5) or (c). If corrective actions are taken as specified in 40 CFR 60.36f, the  
17 monitored exceedance shall not be a violation of the operational requirements in this Rule; and
- 18 (8) The owner or operator may choose to comply with the provisions of 40 CFR 63.1958 in lieu of  
19 Items (1) through (7) of this Rule. Once the owner or operator begins to comply with the provisions  
20 of 40 CFR 63.1958, the owner or operator shall continue to operate the collection and control device  
21 according to those provisions and cannot return to the provisions of this Rule.

22

23 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5); 143-215.107(a)(10);*  
24 *Eff. July 1, 1998;*  
25 *Readopted Eff. October 1, 2020-2020;*  
26 *Amended Eff. July 1, 2021.*  
27  
28  
29



## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1706

**DEADLINE FOR RECEIPT: June 10, 2021**

**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 call our office to inquire concerning the staff recommendation.

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

*Please compare (c) with .1705(4). Rule .1705(4) of this Section requires compliance with 40 CFR 60.36f(d). If you intended to refer to 40 CFR 60.36f(d) here as well, why is it necessary to repeat that requirement? If you did intend to refer to 40 CFR 60.36f(c) here, would it be easier for your regulated public to follow along with what is required in these rules if you stated that requirement in .1705(4) instead of in this Rule?*

*Paragraph (d) is confusing. If this Paragraph governs compliance with Paragraph (c), why not combine the two paragraphs? When does an owner or operator have to comply with Paragraph (c) vs. 40 CFR 60.35(f)(a)(6)? Paragraph (d) also says to comply with Paragraph (c), the owner or operator needs to comply with 40 CFR 60.36f(d), but Paragraph (c) requires compliance with 40 CFR 60.36(c). Please review and clarify.*

*In (e), are the start-up, shutdown, and malfunction periods defined? Does your regulated public understand these terms?*

*In (f), line 20, please change "cannot" to "shall not."*

*Please compare (g) with (a). As I read (g), it sets different requirements for compliance than Paragraph (a) does. Please review and clarify. Please also consider whether it would make sense to combining Paragraphs (a) and (g).*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder  
Commission Counsel  
Date submitted to agency: May 27, 2021

1 15A NCAC 02D .1706 is amended as published 35:16 NCR 1805 as follows:

2  
3 **15A NCAC 02D .1706 COMPLIANCE PROVISIONS**

4 (a) Compliance with 15A NCAC 02D .1703(b) shall be determined using the gas collection system compliance  
5 provisions of 40 CFR ~~60.755(a)~~, 60.36f(a).

6 (b) Compliance with 15A NCAC 02D .1705(1) shall be determined using the controlled landfill gas well and design  
7 component provisions of 40 CFR ~~60.755(a)~~, 60.36f(b).

8 (c) Compliance with the surface methane operational standards of 15A NCAC 02D .1705(4) shall be ~~achieved~~  
9 determined using the procedures of 40 CFR ~~60.755(c) and (d)~~, 60.36f(c).

10 (d) To comply with the provisions in Paragraph (c) of this Rule or 40 CFR 60.35f(a)(6), the owner or operator shall  
11 comply with the instrumentation specifications and procedures for surface emission monitoring devices provisions of  
12 40 CFR 60.36f(d).

13 ~~(c)(d) The provisions of this Rule apply at all times, apply, except during periods of start-up, shutdown, or malfunction,~~  
14 ~~malfunction, provided that the duration of start up, shutdown, or malfunction shall not exceed five days for collection~~  
15 ~~systems and shall not exceed one hour for treatment or control devices. During periods of startup, shutdown, and~~  
16 ~~malfunction, the owner or operator shall comply with the work practice specified in 40 CFR 60.34f(e) in lieu of the~~  
17 compliance provisions in 40 CFR 60.36f.

18 (f) The owner or operator may choose to comply with the provisions of 40 CFR 63.1960 in lieu of Paragraphs (a)  
19 through (e) of this Rule. Once the owner or operator begins to comply with the provisions of 40 CFR 63.1960, the  
20 owner or operator shall continue to operate the collection and control device according to those provisions and cannot  
21 return to the provisions of this Rule.

22 (g) Compliance with the specifications for active collection systems in 15A NCAC 02D .1703(b) shall be determined  
23 using the provisions of 40 CFR 60.40f(a) and (b).

24 (h) Compliance with the specifications for active collection systems in 15A NCAC 02D .1703(c) shall be determined  
25 using the provisions of 40 CFR 60.40f(c).

26  
27 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.66; 143-215.107(a)(5); 143-215.107(a)(10);*

28 *Eff. July 1, 1998;*

29 *Readopted Eff. October 1, ~~2020~~ 2020;*

30 *Amended Eff. July 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1707

**DEADLINE FOR RECEIPT: June 10, 2021**

**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 call our office to inquire concerning the staff recommendation.

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

*Does (a) repeat .1706(a)? If so, please avoid repetition.*

*In (c), you use the term "non-enclosed flare" and in (d) you use the term "open flare." If these terms mean the same thing, please be consistent with word usage.*

*In (d), please add a comma after "an enclosed combustor."*

*In (h), please add quotation marks around "monitoring system malfunction" since you are defining the term.*

*In (h), line 28, under what circumstances is a malfunction not "reasonably preventable?" How is this determination made?*

*At line 29, would "negligent" be a clearer term than "careless?" Was that your intent here?*

*At line 31, please define "as expeditiously as practicable." How do you determine whether this requirement is met?*

*At line 34, please replace "cannot" with "shall not."*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder  
Commission Counsel  
Date submitted to agency: May 27, 2021

1 15A NCAC 02D .1707 is amended with changes as published 35:16 NCR 1805 as follows:

2  
3 **15A NCAC 02D .1707 MONITORING PROVISIONS**

4 (a) The owner or operator of a MSW landfill who is required to comply with 15A NCAC 02D ~~.1703(b)(2).~~1703(b)  
5 for an active gas collection system shall perform the monitoring requirements as outlined in 40 CFR ~~60.756(a).~~  
6 60.37f(a).

7 (b) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D  
8 ~~.1703(b)(3)(C).~~1703(c) using an enclosed combustor shall perform the monitoring requirements as outlined in 40 CFR  
9 ~~60.756(a).~~ 60.37f(b).

10 (c) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D  
11 ~~.1703(b)(3)(A).~~1703(c) using an open-a non-enclosed flare shall perform the monitoring requirements as outlined in  
12 40 CFR ~~60.756(e).~~[60.37f(d).] 60.37f(c).

13 (d) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D  
14 ~~.1703(b)(3).~~1703(c) using a device other than an open ~~flare or flare,~~ an enclosed combustor or treatment system shall  
15 comply with the provisions of 40 CFR ~~60.756(d).~~60.37f(d).

16 (e) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D  
17 ~~.1703(b)(3)(B).~~1703(b) using an active by installing a collection system that does not meet the specifications of 40  
18 CFR 60.40f, or seeking to monitor alternative parameters to those required by 15A NCAC 02D .1704 through .1707  
19 shall comply with the provisions of 40 CFR ~~60.756(e).~~ 60.37f(e).

20 (f) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D ~~.1706(e)~~  
21 .1705(4) for demonstrating compliance with the 500 parts per million surface methane operational standard shall do  
22 so in accordance with 40 CFR ~~60.756(f).~~60.37(f).

23 (g) The owner or operator of an MSW landfill seeking to comply with the provisions of 15A NCAC 02D .1703(c)  
24 shall do so in accordance with the provisions of 40 CFR 60. 37f(g).

25 (h) The monitoring requirements of Paragraphs (b), (c), (d), and (g) of this Rule apply at all times the affected source  
26 is operating, except for periods of monitoring system malfunctions, repairs associated with the monitoring system  
27 malfunctions, and required monitoring system quality assurance or quality control activities. A monitoring system  
28 malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid  
29 data. Monitoring system failures that are caused in part by poor maintenance or careless operation are not  
30 malfunctions. Monitoring system repairs to return the monitoring system to operation in response to malfunctions  
31 shall be completed as expeditiously as practicable.

32 (i) The owner or operator may choose to comply with the provisions of 40 CFR 63.19561 in lieu of Paragraphs (a)  
33 through (h) of this Rule. Once the owner or operator begins to comply with the provisions of 40 CFR 63.1961, the  
34 owner or operator shall continue to operate the collection and control device according to those provisions and cannot  
35 return to the provisions of this Rule.

36  
37 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.66; 143-215.107(a)(5); 143-215.107(a)(10);*

- 1                   *Eff. July 1, 1998;*
- 2                   *Readopted Eff. October 1, ~~2020~~ 2020;*
- 3                   *Amended Eff. July 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1708

**DEADLINE FOR RECEIPT: June 10, 2021**

**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 call our office to inquire concerning the staff recommendation.

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

*Throughout this Rule, were the changes made post-publication made in response to public comment?*

*Why are (a)(2)(A) and (B) necessary? They repeat 40 CFR 60.38f(a)(1) and (2). Consider ending the sentence at line 12 after "60.38f(a)(2)", deleting "as follows," and deleting (A) and (B).*

*In (c), line 26, please capitalize "State" if you are referring to North Carolina.*

*In (d)(3), I think you should delete the word "provide."*

*In (e), please capitalize "State" if you are referring to North Carolina.*

*In (e), how does the Director decide whether to approve the revised design plan? What factors are considered?*

*On page 2, line 32 and on page 3, line 1, what additional information "may be necessary?"*

*In (h), lines 9-11, please add a comma after ".1706," delete the comma after ".1707," and replace "the owner or operator must" with "shall."*

*In (k), line 22, please add a comma after ".1706," delete the comma after ".1707," and delete "the owner or operator" at line 23.*

*In (l), why is "Research, Development, and Demonstration" capitalized?*

*In (n), please add a comma after ".1706."*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder  
Commission Counsel  
Date submitted to agency: May 27, 2021

1 15A NCAC 02D .1708 is amended with changes as published 35:16 NCR 1805 as follows:

2  
3 **15A NCAC 02D .1708 REPORTING REQUIREMENTS**

4 (a) The owner or operator of ~~a~~ an existing MSW landfill subject to this Rule according to 15A NCAC 02D .1702 shall  
5 submit a design capacity report to the Director ~~in accordance with the following:~~ as follows:

6 (1) The initial design capacity report shall ~~fulfill the requirements of the notification of the date~~  
7 ~~construction is commenced as required under 40 CFR 60.7(a)(1) and shall be submitted no later than~~  
8 ~~the earliest of the day from the dates given in 40 CFR 60.757(a)(1)(i) and 40 CFR 60.757(a)(1)(ii);~~  
9 be submitted no later than 90 days after the effective date of the EPA approval of the State Plan  
10 pursuant to Section 111(d) of the Clean Air Act;

11 (2) The initial design capacity report shall contain the information given in 40 CFR ~~60.757(a)(2)(i)~~  
12 ~~60.38f(a)(1) and 40 CFR 60.757(a)(2)(ii); and 60.38f(a)(2) as follows:~~

13 (A) a map or plot of the landfill, providing the size and location of the landfill, and identifying  
14 all areas where solid waste may be landfilled according to the permit issued by the state,  
15 local, or tribal agency responsible for regulating the landfill; and

16 (B) the maximum design capacity of the landfill as given in 40 CFR 60.38f(a)(2).

17 (3) ~~An amended design capacity report shall be submitted to the Director in accordance with 40 CFR~~  
18 ~~60.757(a)(3) whenever an increase in the design capacity of the landfill results in the design capacity~~  
19 ~~of the landfill to exceed 2.5 million cubic meters and 2.75 million tons.~~

20 (b) The owner or operator of an existing MSW landfill subject to this Section shall submit an amended design capacity  
21 report providing notification of an increase in the design capacity of the landfill, within 90 days of an increase in the  
22 maximum design capacity of the landfill to meet or exceed 2.5 million megagrams and 2.5 million cubic meters. An  
23 increase in design capacity may result from an increase in the permitted volume of the landfill or an increase in the  
24 density as documented in the annual recalculation required in 15A NCAC 02D .1709(j).

25 (c)(b) ~~The owner or operator of a~~ an existing MSW landfill subject to this Rule shall submit a NMOC emission report  
26 to the Director ~~initially~~ no later than 90 days after the effective date of EPA approval of the state plan pursuant to  
27 Section 111(d) of the Clean Air Act and annually thereafter, except as provided for in 40 CFR 60.757(b)(1)(ii)  
28 60.38f(c), or (b)(3). The initial NMOC emission rate report shall be submitted within 90 days of the day waste  
29 acceptance commences and may be combined with the initial design capacity report required in Paragraph (a) of this  
30 Rule. The NMOC emission rate report shall:

31 (1) contain an annual or five-year estimate of the NMOC emission rate calculated using the formula  
32 and procedures provided in 40 CFR ~~60.754(a)~~ 60.35f(a) or (b), as applicable; ~~and~~

33 (2) include all the data, calculations, sample reports, and measurements used to estimate the annual or  
34 five-year ~~emissions~~ emissions; and

35 (3) if the estimated NMOC emission rate as reported in the annual report is less than 34 megagrams per  
36 year in each of the next five consecutive years, the owner or operator may elect to submit an estimate  
37 of the NMOC emission rate for the next five-year period in lieu of the annual report. This estimate

1 shall include the current amount of solid waste-in-place and the estimate waste acceptance rate for  
2 each year of the five years for which an NMOC emission rate is estimated. All data and calculations  
3 shall be provided. This estimate shall be revised at least once every five years. If the actual waste  
4 acceptance rate exceeds the estimated waste acceptance rate in any year reported in the five-year  
5 estimate, a revised five-year estimate shall be submitted. The revised estimate shall cover the five-  
6 year period beginning with the year in which the actual waste acceptance rate exceeded the estimated  
7 waste acceptance rate.

8 (4) each owner and operator subject to the requirements of this Rule shall be exempted from the  
9 requirements to submit an NMOC emission rate report, after installing a compliant collection and  
10 control system, during such time as the collection and control system is in operation and in  
11 compliance with 15A NCAC 02D .1705 and .1706.

12 (d)(e) The owner or operator of an existing MSW landfill subject to 15A NCAC 02D .1703.1703(b) shall submit a  
13 collection and control system design plan to the Director within one year of the first NMOC emission rate report,  
14 required under Paragraph (b)(c) of this Rule, in which the emission rate equals or exceeds 55 tons 34 megagrams per  
15 year, except as provided for in 40 CFR 60.757(e)(1) and (e)(2). ~~60.38f(d)(4).~~ 60.38f(d)(4)(i), 60.38f(d)(4)(ii), and  
16 60.38f(d)(4)(iii). The collection and control system design plan shall include:

17 (1) a description of the collection and control system;

18 (2) a description of any alternatives to the operational standards, test methods, procedures, compliance  
19 measures, monitoring, recordkeeping, or reporting provisions provided in this Rule; and

20 (3) a description indicating how the plan conforms to specifications for active collection systems or  
21 provide a demonstration of sufficient alternative provisions as given in 40 CFR 60.40f.

22 (e) The owner or operator of an existing MSW landfill who has already submitted a design plan pursuant to Paragraph  
23 (d) of this Rule, pursuant to 40 CFR Part 60, Subpart WWW, or a state plan implementing 40 CFR Part 60, Subpart  
24 Cc, shall submit a revised design plan to the Director for approval as follows:

25 (1) at least 90 days before expanding operations to an area no covered by the previously approved  
26 design plan; and

27 (2) prior to installing or expanding the gas collection system in a way that is not consistent with the  
28 design plan that was submitted to the Director in Paragraph (d) of this Rule.

29 (f)(d) The owner or operator of a controlled landfill shall submit a closure report to the Director within 30 days of  
30 cessation of waste acceptance. If a closure report has been submitted to the Director, no additional waste shall be  
31 placed into the landfill without first filing a notification of modification as described under pursuant to 40 CFR  
32 60.7(a)(4). The Director may request such additional information as may be necessary to verify that permanent closure  
33 of the MSW landfill has taken place in accordance with pursuant to the requirements of 40 CFR 258.60.

34 (g)(e) The owner or operator of a controlled MSW landfill shall submit an equipment removal report 30 days prior to  
35 removal or cessation of operation of the control equipment according to 15A NCAC 02D .1703(e).1703(f). The  
36 report shall contain the items listed in 40 CFR ~~60.757(e)(1).~~60.38f(g). The Director may request such additional



1 information as may be necessary to verify that all the conditions for removal in 40 CFR ~~60.752(b)(2)(v)~~60.33f(f) have  
2 been met.

3 ~~(h)(4)~~ The owner or operator of a MSW landfill seeking to comply with 15A NCAC 02D ~~.1703(b)(2)~~.1703(b) using  
4 an active collection system designed in accordance with 40 CFR ~~60.752(b)(2)(ii)~~ ~~[60.333f(b)]~~60.33f(b) shall ~~[submit]~~  
5 submit, following the procedures pursuant to 60.38f(j)(2), annual reports of the recorded information in 40 CFR  
6 ~~60.757(f)(1)~~ 60.38f(h)(1) through ~~(f)(6)~~ (h)(7). The initial annual report shall be submitted within 180 days of  
7 installation and start-up of the collection and control system, and shall include the initial performance test report  
8 required under 40 CFR 60.8. The initial performance test report shall be submitted by following the procedures  
9 pursuant to 60.38f(j)(1). Each owner or operator that chooses to comply with the operational provisions of 40 CFR  
10 63.1958, 63.1960, and 63.1961, as allowed by 15A NCAC 02D .1705, .1706 and .1707, the owner or operator must  
11 follow the semi-annual reporting requirements in 40 CFR 63.1981(h) in lieu of this Paragraph.

12 ~~(g) The owner or operator of a MSW landfill seeking to comply with 15A NCAC 02D .1703(b)(3) using an enclosed~~  
13 ~~combustion device or flare shall report the excess as defined in 40 CFR 60.758(e)(1).~~

14 ~~(i)(4)~~ The owner or operator of ~~a~~ an existing MSW landfill required to comply with 15A NCAC 02D  
15 ~~.1703(b)(1)~~.1703(b) shall include the information given in 40 CFR ~~60.757(g)(1)~~ 60.38f(i)(1) through ~~(g)(6)~~ (i)(6) with  
16 the initial performance test report required ~~under~~ pursuant to 40 CFR 60.8.

17 (j) The owner or operator of an existing MSW landfill shall submit a report within 60 days after the date of completing  
18 each performance [test.] test pursuant to 40 CFR 60.38f(j). ~~[This report may be submitted as a hard copy or~~  
19 ~~electronically as applicable.]~~

20 (k) The owner or operator of an existing MSW landfill required to implement corrective active, shall submit reports  
21 to the Director pursuant to 40 CFR 60.38f(k)(1) and (k)(2). Each owner or operator that chooses to comply with the  
22 operational provisions of 40 CFR 63.1958, 63.1960, and 63.1961, as allowed by 15A NCAC 02D .1705, .1706 and  
23 .1707, the owner or operator shall follow the corrective action and the corresponding timeline reporting requirements  
24 in 40 CFR 63.1981(j) in lieu of this Paragraph.

25 (l) The owner or operator of an affected landfill with a design capacity equal to or greater than 2.5 million megagrams  
26 and 2.5 million cubic meters that has employed leachate recirculation or added liquids based on a Research,  
27 Development, and Demonstration permit within the last 10 years shall submit an annual report to the Director that  
28 includes the information pursuant to 40 CFR 60.38f(l)(1) through (l)(10). The annual report shall be submitted by  
29 following the procedures pursuant to 60.38f(j)(2).

30 (m) The owner or operator of an affected landfill with a design capacity equal to or greater than 2.5 million megagrams  
31 and 2.5 million cubic meters that intends to demonstrate site-specific surface methane emissions are below 500 parts  
32 per million methane, based on Tier 4 provisions of 40 CFR 60.35f(a)(6), shall provide notifications to the Director in  
33 accordance with 40 CFR 60.38f(m)(1) and (m)(2).

34 (n) Each owner or operator that chooses to comply with the operational provisions of 40 CFR 63.1958, 63.1960, and  
35 63.1961, as allowed by 15A NCAC 02D .1705, .1706 and .1707, shall submit the 24-hour high temperature report  
36 according to 40 CFR 63.1981(k).

1    *History Note:*    *Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(5); 143-215.107(a)(10);*  
2                    *Eff. July 1, 1998;*  
3                    *Amended Eff. July 1, 2000;*  
4                    *Readopted Eff. October 1, ~~2020~~ 2020;*  
5                    *Amended Eff. July 1, 2021.*  
6

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1709

**DEADLINE FOR RECEIPT: June 10, 2021**

**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 call our office to inquire concerning the staff recommendation.

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

*Throughout this Rule, please define "readily accessible."*

*Throughout this Rule, is it necessary to say "at least?" Rules always set minimum requirements.*

*In (a), define "accessible." Is this intentionally different than "readily accessible" as used elsewhere in this Rule?*

*Are the last two sentences in (b) necessary? They repeat language from 40 CFR 60.768(b).*

*In (i)(1), please add a comma after ".1706."*

*In (i)(1), what do you mean by "shall keep records of the date upon which the owner or operator started complying?" Do you mean "shall keep records beginning on the date the owner or operator started complying" or do you mean the records are of that one, specific date that compliance started?*

*In your history note, why is 143-215.107(a)(4) listed?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder  
Commission Counsel  
Date submitted to agency: May 27, 2021

1 15A NCAC 02D .1709 is amended as published 35:16 NCR 1807 as follows:

2  
3 **15A NCAC 02D .1709 RECORDKEEPING REQUIREMENTS**

4 (a) The owner or operator of a MSW landfill subject to this Section ~~and shall keep on-site~~ on-site, accessible, for at  
5 least five years ~~records of the information listed in 40 CFR 60.758(a), a copy of the design capacity report that triggered~~  
6 40 CFR 60.33f(e), the current amount of solid waste in-place, and the year-by-year waste acceptance rate. Off-site  
7 records may be maintained if they are retrievable within four hours. Either paper copy or electronic formats of the  
8 records shall be acceptable.

9 (b) The owner or operator of a controlled landfill shall keep up-to-date records pursuant to 40 CFR 60.768(b) for the  
10 life of the control equipment of the data listed in 40 CFR ~~60.758(b)(1)~~ 60.39f(b)(1) through ~~(b)(4)~~ (b)(5) as measured  
11 during the initial performance test or compliance determination. Records of subsequent tests or monitoring shall be  
12 maintained for a minimum of five years. Records of the control device vendor specifications shall be maintained until  
13 removal.

14 (c) Each owner or operator of a controlled MSW landfill subject to this Section shall keep for five years up-to-date  
15 records pursuant to 40 CFR 60.768(c) of the equipment operating parameters specified to be monitored in 15A NCAC  
16 02D .1707 and records for periods of operation during which the parameter boundaries established during the most  
17 recent performance test are exceeded. The parameter boundaries considered in excess of those established during the  
18 performance test are defined in 40 CFR ~~60.758(e)(1)(i)~~ 60.39f(c)(1)(i) and (ii) and are also required to be reported  
19 pursuant to 15A NCAC 02D ~~.1708(g)~~ .1708(j).

20 (d) The owner or operator of a MSW landfill subject to this Section shall keep up-to-date, readily accessible  
21 continuous records of the indication of flow to the control system and the indication of bypass flow or records of  
22 monthly inspections of car-seals or lock-and-key configuration used to seal bypass lines as specified in 40 CFR 60.37f.

23 (e) The owner or operator of a MSW landfill subject to this Section who uses a boiler or process heater with a design  
24 heat input capacity of 44 megawatts or greater to comply with 40 CFR 60.33f(c) shall keep an up-to-date, readily  
25 accessible record of all periods of operation of the boiler or process heater.

26 (f) The owner or operator of a MSW landfill seeking to comply with the provisions of 15A NCAC 02D .1703(c) by  
27 use of a non-enclosed flare shall keep up-to-date, readily accessible records of all periods of operation in which the  
28 flame or flare pilot flame is absent.

29 (g) The owner or operator of a MSW landfill seeking to comply with the provisions of 15A NCAC 02D .1703(b)  
30 using an active collection system designed pursuant to 40 CFR 60.33f(b) shall keep records of periods of when the  
31 collection system or control device is not operating.

32 (h)~~(d)~~ The owner or operator of a MSW landfill subject to 15A NCAC 02D .1703(b) shall keep for the life of the  
33 collection system an up-to-date plot map pursuant to 40 CFR 60.768(d) showing existing and planned collectors in  
34 the system and provide unique identification location labels for each collector. Records of newly installed collectors  
35 shall be maintained ~~in accordance with~~ pursuant to 40 CFR ~~60.758(d)(1)~~ 60.36f(b) and documentation of asbestos-  
36 containing or nondegradable waste excluded from collection shall be kept ~~in accordance with~~ pursuant to 40 CFR

~~60.758(d)(2).~~ 60.40(a)(3)(i) and records of any nonproductive areas excluded from collection shall be kept pursuant to 40 CFR 60.40f(a)(3)(ii).

~~(i)(e)~~ The owner or operator of a MSW landfill subject to 15A NCAC 02D .1703(b) shall keep for at least five years records of emissions from the collection and control system exceeding the emission standards in accordance with 40 CFR 60.758(e), accessible records of the following:

(1) each owner or operator that chooses to comply with the operational provisions of 40 CFR 63.1958, 63.1960, and 63.1961, as allowed by 15A NCAC 02D .1705, .1706 and .1707, shall keep records of the date upon which the owner or operator started complying with the provisions in 40 CFR 63.1958, 63.1960, and 63.1961, and shall keep records according to 40 CFR 63.1983(e)(1) through (e)(5) in lieu of Subparagraphs (2) through (4) of this Paragraph;

(2) records of emissions from the collection and control system exceeding the operational standards pursuant to 40 CFR 60.34f, including the reading in the subsequent month whether or not the second reading is an exceedance, and the location of each exceedance;

(3) records of each wellhead temperature monitoring value of 55 degrees Celsius (131 degrees Fahrenheit) or above, each well head nitrogen level at or above 20 percent, and each wellhead oxygen level at or above five percent; and

(4) records for any root cause analysis as provided in 40 CFR 60.39f(e)(3) through (e)(5).

~~(f) The owner or operator of MSW landfill subject to 15A NCAC 02D .1703(b) shall keep up to date records pursuant to 40 CFR 60.758(e)(2) of the indication of flow to the control device or the indication of bypass flow or records of monthly inspections of car seals or lock and key configurations used to seal bypass lines, specified pursuant to 40 CFR 60.756.~~

~~(g) The owner or operator of MSW landfill subject to 15A NCAC 02D .1703(b) who uses a boiler or process heater with a design heat input capacity of 44 megawatts or greater to comply with 40 CFR 60.752(b)(2)(iii) shall keep an up to date record pursuant to 40 CFR 60.758(e)(3) of all periods of operation of the boiler or process heater.~~

~~(h) The owner or operator of MSW landfill seeking to comply with the provisions of 15A NCAC 02D .1703(b) by use of an open flare shall keep up to date records of the flame or flare pilot flame monitoring specified pursuant to 40 CFR 60.756(e), and up to date records of all periods of operation in which the flame or flare pilot flame is absent.~~

(j) The owner or operator of a MSW landfill who converts design capacity from volume to mass or mass to volume to demonstrate that landfill design capacity is less than 2.5 million megagrams or 2.5 million cubic meters, as provided in the definition of "design capacity", shall keep readily accessible, on-site records of the annual recalculation of site specific density, design capacity, and the supporting documentation. Off-site records may be maintained if they are retrievable within four hours. Either paper copy or electronic formats are acceptable.

(k) The owner or operator of a MSW landfill seeking to demonstrate that site-specific surface methane emissions are below 500 parts per million by conducting surface emissions monitoring under the Tier 4 procedures shall follow the recordkeeping provisions provided in 40 CFR 39f(g).

(l) The owner or operator of a MSW landfill subject to the provisions of this Section shall keep for at least five years

1 up-to-date, readily accessible records of all collection and control system monitoring data for the parameters measured  
2 in 40 CFR 60.37f(a)(1) through (a)(3).

3 (m) The owner or operator of a MSW landfill reporting leachate or other liquids addition pursuant to 15A NCAC  
4 02D .1708(k) shall keep records of any engineering calculations or company records used to estimate the quantities  
5 or leachate or liquids added, the surface areas for which the leachate or liquids were applied, and the estimates of  
6 annual waste acceptance or total waste in place in the areas where leachate or liquids were applied.

7  
8 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.65; 143-215.66; 143-215.107(a)(4), 143-215.107(a)(5),*  
9 *143-215.107(a)(10);*

10 *Eff. July 1, 1998;*

11 *Amended Eff. July 1, 2000;*

12 *Readopted Eff. October 1, ~~2020~~ 2020;*

13 *Amended Eff. July 1, 2021.*

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .1710

**DEADLINE FOR RECEIPT: June 10, 2021**

**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 call our office to inquire concerning the staff recommendation.

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

*In your history note, why is 143-215.107(a)(4) listed?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Ashley Snyder  
Commission Counsel  
Date submitted to agency: May 27, 2021

1 15A NCAC 02D .1710 is amended as published 35:16 NCR 1808 as follows:

2  
3 **15A NCAC 02D .1710 COMPLIANCE SCHEDULES**

4 For each existing MSW landfill subject to this Section as specified in 15A NCAC 02D .1702 and meeting the design  
5 capacity condition of 15A NCAC 02D ~~.1703(a)(1)~~ .1703(a) whose NMOC emission rate is less than ~~55 tons~~ 34  
6 megagrams per year on or after July 1, 1998, the most recent effective date of this Rule, shall:

- 7 (1) submit a site-specific design plan for the gas collection and control system to the Director within 12  
8 months of first exceeding the NMOC emission rate of ~~55 tons~~ 34 megagrams per year; year and 50  
9 megagrams per year for the closed landfill subcategory; and  
10 (2) plan, award contracts, and install MSW landfill air emission collection and control system capable  
11 of meeting the emission standards established pursuant to 15A NCAC 02D .1703 within 30 months  
12 of the date when the conditions in 15A NCAC 02D ~~.1703(a)(2)(a)(3)~~ are met.

13  
14 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(4); 143-215.107(a)(5);*  
15 *Eff. July 1, 1998;*  
16 *Readopted Eff. October 1, ~~2020~~ 2020;*  
17 *Amended Eff. July 1, 2021.*