

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 13B .0840

DEADLINE FOR RECEIPT: Friday, April 7, 2017

NOTE WELL: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Please note that any suggested language is merely a suggestion. You are in no way required to use the suggested language. If you do choose to use the suggested language, please ensure the accuracy of the language.

In (a), by "Section", do you mean "Rule"? I have briefly looked over the other Rules of this Section, and don't see any monitoring or sample analysis requirements elsewhere.

In (a), line 5, what is "this" in "This includes..." Are you specifically referring to the costs?

Please consider rewriting (a) to make it more clear and simple. Is the point of (a) simply to say that the costs of any monitoring or sample analysis will be the responsibility of the permit holder? If so, please consider saying that? I would suggest something like "The permit holder (or whomever may be accurate) shall be responsible for all costs associated with monitoring or sample analysis required by this Rule."

What is the difference between "monitoring" and sample analysis? It looks like all of this Rule, except Paragraph (d) refers to "sampling." If this is correct, have you considered rearranging this Rule to make it more clear that these are separate requirements? That is assuming that is correct.

In (b), what is meant by "shall arrange"? Do you actually mean "shall obtain"?

What is the difference between (b) and (c)? It appears as though there is some duplicative language except that (b) also sets forth the timing. If this is correct. I would suggest that you simplify (b) to say something like "All monitoring or sample analysis required by this Rule shall be conducting during the last quarter of the

Amber Cronk May
Commission Counsel
Date submitted to agency: March 24, 2017

calendar year.” I would then suggest that this language be moved toward the end of the Rule since it will apply to both monitoring and sample analysis.

What is the difference between “sampling” and “sample analysis”?

In (c), how is something designated as a “separate field of a permitted septage land application site”? Is the meaning of this set forth elsewhere in rule or statute? I’m not sure that a change is necessary, I just want to make sure that it is clear somewhere what is meant.

In (c), have you considered breaking out the last sentence into its own Paragraph?

In (e) and (f), what is “proposed to be land applied at a permitted septage land application site”? Is there a simpler, more concise way of saying this? Is this language used elsewhere in this Section? I don’t see it anywhere else and I’m not sure what it means. Please clarify.

What exactly is the intent of (e) and (f)? Is it intending to carve out a different requirement for these sites than (b) and/or (c)? Are (e) and (f) are saying that you need to get a sample prior to operation as a septage land application site for domestic and industrial or commercial septage land application sites. Then, you have to get a sample done annually only for the domestic sites? Is the requirement that these sites get a sampling prior to a permit being issued elsewhere?

In (g), by “this Section”, do you mean “this Rule”?

In (g), is there a cross-reference available regarding the certification of a laboratory for waste analysis?

In (g), is “Organic chemical analysis shall be conducted according to (f)(3)” necessary given that the only reference to “organic chemical analysis” appears to be addressed exclusively in (f)(3)?

In (g), I assume that the NC Department of Agriculture and Consumer Services lab is certified for waste analysis?

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

Amber Cronk May
Commission Counsel
Date submitted to agency: March 24, 2017

1 15A NCAC 13B .0840 is amended as published in 31:12 NCR 1232 as follows:

2
3 **15A NCAC 13B .0840 SAMPLING AND ANALYSIS**

4 (a) Monitoring or sample analysis required by this Section, and all costs involved, are the responsibility of the septage
5 management firm, site operator, or ~~the~~ owner of the wastewater system, as appropriate. This includes all costs of
6 ~~analysis of sampling, collection, handling, and analysis of samples, testing.~~

7 (b) The permit holder of a septage land application site shall arrange for ~~annual~~ representative soil samples to be taken
8 ~~once every two years~~ from each field at the permitted site during the last quarter of ~~each~~ the calendar year.

9 (c) Soil samples shall be taken ~~annually~~ once every two years from each area designated as a separate field of a
10 permitted septage land application site and analyzed for cation exchange capacity, pH, phosphorus, potassium,
11 ~~calcium~~ calcium, manganese, magnesium, zinc, and copper. If the results for zinc analysis are equal to or above 30
12 pounds per acre or the results for copper analysis are equal to or above 35 pounds per acre, analysis for the metals
13 listed in Rule .0835(c)(10)(B) of this Section shall be required. ~~Analysis for other metals shall be required when zinc~~
14 ~~levels reach 30 pounds per acre or copper levels reach 35 pounds per acre.~~ Sites permitted to receive ~~septage, septage~~
15 other than domestic ~~septage, septage~~ shall be sampled once every two years ~~annually~~ to determine compliance with
16 40 CFR 257.3-5, 40 CFR 257.3-6.

17 (d) Domestic septage and grease septage shall be monitored in accordance with 40 CFR Part 503.16(b).

18 (e) Domestic treatment plant septage proposed to be land applied at a permitted septage land application site shall be
19 sampled before the initial application, and annually thereafter, prior to being removed from a treatment facility for the
20 following:

21 (1) Metals ~~addressed~~ listed in 40 CFR 503.13; and

22 (2) Total solids, pH, ammonia, nitrates, total ~~kjeldahl~~ kjeldahl nitrogen (TKN), biochemical oxygen
23 demand (BOD), chemical oxygen demand (COD), total phosphorus, potassium, ~~sodium~~ sodium,
24 and magnesium.

25 (f) Industrial or commercial ~~septage, septage~~ or commercial treatment plant ~~septage, septage~~ proposed to be land
26 applied at a permitted septage land application ~~site, site~~ shall be sampled prior to being removed from a wastewater
27 system. Analytical results shall be submitted to the Division ~~for consideration~~ prior to the issuance of a permit or
28 approval to land apply the septage. Analysis shall be conducted for:

29 (1) Metals ~~addressed~~ listed in 40 CFR 503.13;

30 (2) Total solids, pH, ammonia, nitrates, TKN, BOD, COD, total phosphorus, potassium, ~~sodium~~
31 sodium, and magnesium; and

32 (3) Organic chemicals, using a complete Toxicity Characteristic Leaching Procedure or other
33 appropriate sampling, such as EPA Test numbers ~~8240-8260~~ or 8270, unless an examination of the
34 industrial process and the material used indicates less extensive analysis is acceptable.

35 (g) Sample analysis required by this Section shall be performed by a laboratory certified for waste analysis. Analysis
36 shall be conducted in accordance with 40 CFR Part 503.8. Organic chemical analysis shall be conducted according

1 to Subparagraph (f)(3) of this Rule. Results from the North Carolina Department of Agriculture and Consumer
2 Services laboratory ~~will~~ shall be accepted. ~~accepted where appropriate.~~

3
4 *History Note:* Authority G.S. 130A-291.1;
5 *Eff. October 1, ~~2009~~ 2009;*
6 *Amended Eff. May 1, 2017.*