

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02T .1501

DEADLINE FOR RECEIPT: Tuesday, December 5, 2017

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:

Line 5 – the “s” in “shall” appears to be bold. Please check the formatting.

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

Jason Thomas
Commission Counsel
Date submitted to agency: November 17, 2017

1 15A NCAC 02T .1501 is readopted with changes as published in 32:04 NCR 189 as follows:

2
3 **15A NCAC 02T .1501 SCOPE**

4 The rules in this Section shall apply to the Disposal or Treatment of Soils Containing Petroleum Products or other
5 Contaminated Soil by Land Application, Storage, or Containment and Treatment. These Rules ~~do shall~~ not apply to:

- 6 (1) "hazardous waste" as defined in ~~40 CFR 260.10 as adopted by reference in 15A NCAC 13A~~
7 ~~.0102(b);~~ 40 CFR ~~261.3~~261.3, as adopted by reference in 15A NCAC 13A .0106(a), and North
8 Carolina General Statute 130A-290;
- 9 (2) soil contaminated with "hazardous waste" or "hazardous waste constituents" as defined in ~~40 CFR~~
10 ~~260.10 as adopted by reference in 15A NCAC 13A .0102(b) and~~ 40 CFR ~~261.3~~261.3, as adopted by
11 reference in 15A NCAC 13A .0106(a) from a "Facility" as defined in 15A NCAC 13A .0102(c); or
- 12 (3) cuttings and other wastes generated in the construction and development of oil and gas wells
13 regulated by Article 27 of G.S. 113.

14
15 *History Note: Authority G.S. 143-215.1; 143-215.3(a);*
16 *Eff. September 1, 2006;*
17 *Amended Eff. March 19, ~~2015~~2015;*
18 *Readopted Eff. January 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02T .1502

DEADLINE FOR RECEIPT: Tuesday, December 5, 2017

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:

Lines 13-15 – to what does “Division” refer if DWR is the permitting agency? Consider replacing this sentence with: “The permitting agency shall be considered the Division for the purposes of Section .0100 of this Subchapter” if that is what is meant.

Line 13 – if the sentence is not revised as suggested above, replace “When” with “If” and explain what “Division” refers to if DWR is the permitting agency.

Lines 27-31 – cannot these lines conform? Is this what is meant:

- (6) "Soil remediation at conventional rates" means the treatment of contaminated soils by land application methods at an evenly-distributed application layer of contaminated soils not to exceed six inches in depth.
- (7) "Soil remediation at minimum rates" means the treatment of contaminated soils by land application methods at an evenly-distributed application layer of contaminated soils not to exceed one inch in depth.

Line 28 – delete the comma

Lines 28 and 30 – what does “evenly distributed” mean?

Line 28 – if you retain the word “thickness,” do you mean thickness of the contaminated soils? “Thickness” is also used in .1505(b).

Line 31 – delete “maximum”

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

Jason Thomas
Commission Counsel
Date submitted to agency: November 17, 2017

1 15A NCAC 02T .1502 is readopted with changes as published in 32:04 NCR 189 as follows:

2
3 **15A NCAC 02T .1502 DEFINITIONS**

4 The following definitions apply to this Section:

- 5 (1) "Contaminated soil" means soil containing petroleum products or other soil ~~that has been affected~~
6 ~~by containing~~ non-petroleum substances as a result of a release or ~~discharge,~~ discharge as defined in
7 G.S. 143-215.77, but does not include hazardous waste.
- 8 (2) "Dedicated site" means a site used for ~~the repetitive treatment of soils,~~ more than one application of
9 petroleum-contaminated soils onto the same receiver site within an eighteen-month period.
- 10 (3) "Permitting agency" means the Division of Waste Management, UST Section, for contaminated
11 soils originating from underground storage tanks (USTs) discharges of petroleum and for dedicated
12 sites. For other ~~soil,~~ soils originating from non-petroleum sources, the permitting agency means the
13 Division of Water ~~Quality~~ Resources. When the permitting agency is the Division of Waste
14 Management, the Division of Waste Management shall be considered the Division for the purposes
15 of Section .0100 of this Subchapter.
- 16 (4) ~~"Petroleum-contaminated"~~ Petroleum-contaminated soil" or "Soil containing petroleum products"
17 shall mean any soil that has been exposed to petroleum products because of any emission, spillage,
18 leakage, pumping, pouring, emptying, or dumping of petroleum products onto or beneath the land
19 surface and that exhibits characteristics or concentrations of petroleum product constituents in
20 sufficient quantities ~~that exceed either the~~ ["soil-to-groundwater"]soil-to-groundwater contaminant
21 concentrations or the residential maximum soil contaminant concentrations established by the
22 Department pursuant to 15A NCAC 02L .0411, whichever is [lower]lower, ~~as to be detectable~~ by
23 compatible laboratory analytical procedures pursuant to 15A NCAC 02H .0800.
- 24 (5) "Petroleum product" means ~~all~~ any petroleum ~~products~~product as defined by G.S. 143-215.94A and
25 includes motor gasoline, aviation gasoline, gasohol, jet fuels, kerosene, diesel fuel, fuel oils (#1
26 through #6), and motor oils (new and used).
- 27 (6) "Soil remediation at conventional rates" means the treatment of contaminated soils by land
28 application methods, at an evenly distributed thickness not to exceed six inches.
- 29 (7) "Soil remediation at minimum rates" means the treatment of contaminated soils by land application
30 ~~methods,~~ methods at an evenly distributed application ~~thickness~~layer of petroleum-contaminated
31 soils not to exceed an average maximum thickness of one inch.

32
33 *History Note:* Authority G.S. 143-215.1; 143-215.3(a);
34 Eff. September 1, 2006-2006;
35 Readopted Eff. January 1, 2018.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02T .1503

DEADLINE FOR RECEIPT: Tuesday, December 5, 2017

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:

Line 15 – replace “are” with “shall be”

Lines 24-25 – does “application is at minimum rate” refer to “soil remediation at minimum rate” defined in .1502(7)? If so, replace that phrase with “soil remediation is at minimum rate” or “application is at the minimum rate defined in Rule .1502(7) of this Subchapter.”

Line 26 – replace “are” with “shall be”

Line 34 – replace “must” with “shall”

Page 2, line 1 – consider replacing “should” with “shall,” but note that “should” is used in this way ten times in Subchapter 02T.

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

Jason Thomas
Commission Counsel
Date submitted to agency: November 17, 2017

1 15A NCAC 02T .1503 is readopted with changes as published in 32:04 NCR 189 as follows:

2
3 **15A NCAC 02T .1503 PERMITTING BY REGULATION**

4 (a) The following systems ~~are~~shall be deemed permitted pursuant to Rule .0113 of this ~~Subchapter~~Subchapter,
5 provided that the system meets the criteria in Rule .0113 of this Subchapter and all criteria required for the specific
6 system in this Rule:

7 ~~(1) Storage sites for petroleum-contaminated soils that are utilized for less than 45 days, storage is on~~
8 ~~10 mil or thicker plastic, provisions are made for containing potential leachate and runoff, setbacks~~
9 ~~required in Rule .1506 of this Section are maintained, and approval of the activity has been received~~
10 ~~from the appropriate Regional Supervisor or his designee that the site meets the criteria of this Rule.~~

11 (1) Storage sites for petroleum-contaminated soils that are utilized for less than 45 days. Such sites shall
12 meet the following criteria:

13 (A) storage shall be on 10 mil or thicker plastic;

14 (B) provisions shall be made for containing potential leachate and runoff;

15 (C) setbacks required in Rule .1506 of this Section are maintained; and

16 (D) approval of the activity, stating that the site meets the criteria of this Rule, shall have
17 been received from the appropriate Regional Supervisor or his or her designee.

18 ~~(2) Land application sites for petroleum-contaminated soils with volumes of soil from each source of~~
19 ~~less than or equal to 50 cubic yards or for the application of up to 100 cubic yards if the application~~
20 ~~is at minimum rate, setbacks required in Rule .1506 of this Section are maintained, and approval of~~
21 ~~the activity has been received from the appropriate Regional Supervisor or his designee that the site~~
22 ~~meets the criteria of this Rule.~~

23 (2) Land application sites for petroleum-contaminated soils with volumes of soil from each source of
24 less than or equal to 50 cubic yards or for the application of up to 100 cubic yards if the application
25 is at minimum rate. Such sites shall meet the following criteria:

26 (A) setbacks required in Rule .1506 of this Section are maintained; and

27 (B) approval of the activity, stating that the site meets the criteria of this Rule, shall have
28 been received from the appropriate Regional Supervisor or his or her designee.

29 ~~(3) Land application sites for the disposal of drill cuttings if applied on the site where the drilling occurs~~
30 ~~and setbacks required in Rule .1506 of this Section are maintained. Soils contaminated with non-~~
31 ~~petroleum substances must be determined by chemical analysis to be non-hazardous wastes.~~

32 (3) Land application sites for the disposal of drill cuttings if applied on the site where the drilling
33 occurs. Such sites shall meet the following criteria:

34 (A) soils contaminated with non-petroleum substances must be determined by chemical
35 analysis to be non-hazardous wastes; and

36 (B) setbacks required in Rule .1506 of this Section shall be maintained.

(b) The Director may determine that a system should not be deemed permitted in accordance with this Rule and Rule .0113 of this Subchapter. This determination shall be made in accordance with Rule .0113(e) of this Subchapter.

*History Note: Authority G.S. 143-215.1; 143-215.3(a);
Eff. September 1, ~~2006~~2006;
Readopted Eff. January 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02T .1504

DEADLINE FOR RECEIPT: Tuesday, December 5, 2017

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:

Generally, enumerated lists are punctuated with semicolons if each item in the list is not a complete sentence and with periods if each item is a complete sentence. These technical requests seek to follow this general rule.

Lines 5 and 8 – begin these lines with “a” rather than “A”

Line 7 – replace the period with a semicolon

Line 36 – begin this line with “a” rather than “A”

Line 36 – replace “on” with “of”

Page 2, line 2 – add a comma after “less”

Page 2, lines 13, 16, and 17 – replace the periods with semicolons

Page 2, lines 14, 17, and 18 – do not capitalize the beginning words in these lines.

Page 2, line 17 – add “and” after the semicolon at the end of the line

Page 2, line 28 – begin this line with “a” rather than “A”

Page 3, lines 1, 2, 3, 4, and 6 – replace the periods with semicolons

Page 3, lines 2, 3, 4, 5, and 7 – do not capitalize the beginning words in these lines.

Page 3, line 6 – add “and” after the semicolon at the end of the line

Page 3, lines 10, 19, and 21 – do not capitalize the beginning words in these lines.

Page 3, lines 18, and 20 – replace the periods with semicolons

Jason Thomas
Commission Counsel
Date submitted to agency: November 17, 2017

Page 3, line 20 – add “and” after the semicolon at the end of the line

Page 3, line 36 – do you mean “vapor, liquid, or solid by-products” or “vapors or liquid or solid by-products”?

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

Jason Thomas
Commission Counsel
Date submitted to agency: November 17, 2017

1 15A NCAC 02T .1504 is readopted with changes as published in 32:04 NCR 189 as follows:

2
3 **15A NCAC 02T .1504 APPLICATION SUBMITTAL**

4 (a) For all applications the following shall be submitted to the permitting agency by the applicant:

- 5 (1) A ~~complete~~ chemical analysis of the contaminated soil to be remediated, including total petroleum
6 hydrocarbons (TPH), semivolatile and volatile organics, pH, and heavy metals. All methods and
7 procedures shall be in accordance with 15A NCAC 02H .0800.
- 8 (2) A determination of hazardous waste constituents using the Toxicity Characteristic Leaching
9 Procedure (TCLP) described in 40 CFR 261.24. Any substance shall be considered a hazardous
10 waste if the results of the TCLP analysis ~~indicates~~indicate concentrations of constituents greater
11 than the federal regulatory level, unless documentation is provided ~~statingshowing~~ that the
12 contaminated soil is not a hazardous waste ~~(i.e. and is~~ within the scope of this Section as provided
13 in Rule .1501 of this ~~Section)~~Section. A TCLP analysis shall be required for all ~~permit~~
14 ~~applications~~applications for a permit to dispose of ~~petroleum-contaminated~~petroleum-contaminated
15 soil in accordance with the following criteria:
- 16 (A) If the source of the soil contamination is a virgin (unused) petroleum product from an
17 underground storage tank regulated under Subtitle I of RCRA, the contaminated soil shall
18 not be considered a hazardous waste and no TCLP analysis ~~is~~shall be required. In lieu of
19 the TCLP analysis, certification of soil contamination from a virgin petroleum product shall
20 be required.
- 21 (B) If an analysis of the ~~source of~~virgin (unused) petroleum product is submitted showing
22 concentrations less than the regulatory level associated with the constituents of the TCLP
23 analysis (Table II.2 of the Federal Register, Volume 55, No. 61), the contaminated soil
24 shall not be considered a hazardous waste and no TCLP analysis shall be required.
- 25 (C) For soils contaminated with used motor oil, the soils shall be considered hazardous
26 ~~until~~unless proven otherwise by a TCLP analysis for volatile organics and metals (EPA
27 Hazardous Waste Nos. D004-D011).
- 28 (D) For soils contaminated by waste oil, a TCLP analysis for all constituents in Table II.2 of
29 the Federal Register, Volume 55, No. 61, with the exception of pesticides and herbicides,
30 shall be required.
- 31 (E) For soils contaminated with petroleum products not regulated under Subtitle I of
32 ~~RCRA~~RCRA, ~~(excluding~~excluding used motor and waste ~~oils)~~oils, the soils shall be
33 considered hazardous waste until proven otherwise.
- 34 (3) ~~Site map. If required by G.S. 89C, a professional land surveyor shall provide location information~~
35 ~~on boundaries and physical features not under the purview of other licensed professions. A sealed~~
36 ~~map of the site~~A site map showing location information on boundaries and physical features with a

horizontal scale of one inch equals 100 feet or less and topographic contour intervals not exceeding 10 feet or 25 percent of total site relief, whichever is less and including the following:

[Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined, via letter dated December 1, 2005, that locating boundaries and physical features, not ~~under~~pursuant to the purview of other licensed professions, on maps pursuant to this Paragraph constitutes practicing surveying under G.S. 89C.]

(A) all property boundaries and all structures within the treatment, ~~storage~~storage, and land application ~~areas~~areas;

(B) the location of all wells, springs, lakes, ponds, or other surface drainage features within 500 feet of the waste disposal site;

(C) setbacks as required by Rule .1506 of this Section; and

(D) ~~any~~all residences or ~~place~~places of public assembly under separate ownership within 400 feet of the waste disposal site.

(4) ~~For disposal sites encompassing more than one acre. Confirmation~~confirmation that an erosion control plan has been submitted to the Division of Land Quality or its ~~designee, for disposal sites encompassing more than one acre.~~designee.

(5) The volume of contaminated soil to be remediated.

(6) A landowner agreement to allow the use of the property for the purpose of remediating contaminated soil. The agreement is not required when the permit applicant is the sole landowner.

(b) For soil remediation at minimum rates the following shall be submitted to the permitting agency by the applicant:

(1) a calculation of the area required for land ~~application~~application, using the maximum application thickness of one ~~inch~~inch;

(2) an indication of cover ~~crop(s)~~crops; and

(3) proof of written notification in the form of certified mail return receipts to each city and county government having jurisdiction over any part of the land over which disposal is to occur.

(c) For soil remediation at conventional rates ~~(dedicated or non-dedicated sites)~~at dedicated or non-dedicated sites, the following shall be submitted to the permitting agency by the applicant:

(1) A soils evaluation report of the disposal area to evaluate the soil to a depth of five feet. ~~If required by G.S. 89F, a soil scientist shall prepare this evaluation.~~ The report shall include:

[Note: The North Carolina Board for Licensing of Soil Scientists has determined, via letter dated December 1, 2005, that preparation of soils reports pursuant to this Paragraph constitutes practicing soil science ~~under~~pursuant to G.S. 89F.]

(A) field descriptions of texture, color, and ~~structure~~structure;

(B) depth and thickness of soil ~~horizons~~horizons;

(C) presence of any restrictive ~~horizons~~horizons;

(D) depth to seasonal high water ~~table~~table;

(E) soil pH and cation exchange ~~capacity~~capacity; and

- (F) estimates of liming and fertilization requirements.
- (2) The calculation of the size of the disposal area and thickness of application.
- (3) A description of the proposed cover crop.
- (4) A site maintenance plan.
- (5) ~~For dedicated sites only. Proposed~~ groundwater quality ~~monitor~~ monitoring well ~~network~~ ~~(dedicated sites only)-network.~~
- (6) Proof of written notification in the form of certified mail return receipts to each city and county government having jurisdiction over any part of the land over which disposal is to occur.
- (d) For containment and treatment the following shall be submitted to the permitting agency by the applicant:
- (1) A soils evaluation report of the disposal area to evaluate the soil to a depth of five feet. ~~If required by G.S. 89F, a soil scientist shall prepare this evaluation.~~ The report shall include:
[Note: The North Carolina Board for Licensing of Soil Scientists has determined, via letter dated December 1, 2005, that preparation of soils reports pursuant to this Paragraph constitutes practicing soil science ~~under~~ pursuant to G.S. 89F.]
- (A) field descriptions of texture, color, and ~~structure, structure:~~
- (B) depth and thickness of soil ~~horizons, horizons:~~
- (C) presence of any restrictive ~~horizons, horizons:~~ and
- (D) depth to seasonal high water table.
- (2) The plans and specifications of the soil containment vessel and any associated leachate collection system, including the operating thickness of the soil to be contained and treated.
- (3) A description of the chemical or biological additives used in treating the contaminated soil.
- (e) For containment and utilization at brick, asphalt, or other production facilities, a site management ~~plan, plan~~ consisting of a complete description of all operational procedures related to the handling of soils at the proposed ~~facility, facility,~~ shall be submitted to the permitting agency by the applicant, including:
- (1) a description of the staging ~~area(s), area or areas~~ designated for initial ~~receipts, placement~~ of the contaminated ~~soils, soils:~~
- (2) the method of ~~emplacement of placing~~ the soils in the containment ~~area(s), area or areas:~~
- (3) the average ~~residence time of time~~ the soils ~~will remain~~ in the containment ~~area(s), area or areas:~~
- (4) the method of incorporation of the soils into the production facility's product ~~materials, materials:~~ and
- (5) the method of containment and disposal of any leachate or runoff resulting from the containment and storage of contaminated soils.
- (f) For soil remediation using mobile or portable self-contained ~~facilities, facilities,~~ the following shall be submitted to the permitting agency by the applicant:
- (1) a description of the treatment ~~system to include system, including~~ procedures for controlling any vapors, liquid or solid by-products of the treatment ~~process, process:~~
- (2) the method by which any ~~by products, by-product~~ will be ~~disposed, disposed:~~

- 1 (3) the predicted average concentration of contaminants in the untreated ~~soil, soil:~~
2 (4) the sampling procedures and analytical methods by which the ~~concentration(s)~~ concentrations and
3 ~~type(s)~~ types of contaminants in the treated soil will be ~~determined, determined:~~
4 (5) the method of disposal of the treated ~~soil, soil:~~ and
5 (6) for applications proposing to stage soils, a description of the method proposed to prevent contact of
6 contaminated soil with the environment.

7
8 *History Note:* *Authority G.S. 143-215.1; 143-215.3(a);*

9 *Eff. September 1, ~~2006-2006:~~*

10 *Readopted Eff. January 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02T .1505

DEADLINE FOR RECEIPT: Tuesday, December 5, 2017

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:

Lines 15 and 17 – do you mean “thickness” or “depth”? See also .1502(6) and (7).

Line 18 – do you mean “source of” or “characteristics of the”?

Line 32 – replace “Utilization” with “Use” if this does not change the meaning of the rule.

Line 35 – delete the comma if the 95% compaction applies only to the liner of natural material and not also to the synthetic liner.

Page 2, line 6 – what does “compatible” mean in this context?

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

Jason Thomas
Commission Counsel
Date submitted to agency: November 17, 2017

1 15A NCAC 02T .1505 is readopted with changes as published in 32:04 NCR 189 as follows:

2
3 **15A NCAC 02T .1505 DESIGN CRITERIA**

4 (a) Land Application of Soils Containing Petroleum Products at Minimum Rates. ~~Petroleum-contaminated~~~~Petroleum-~~
5 ~~contaminated~~ soils shall be incorporated into the native soils of the receiver site immediately upon application.
6 ~~Liming, fertilization, and aeration of the soils mixture shall be optional.~~ Subsequent application of ~~petroleum~~
7 ~~contaminated~~~~petroleum-contaminated~~ soils onto the same receiver site shall not occur for at least 18 months from the
8 date of the most recent application of ~~petroleum-contaminated~~~~petroleum-contaminated~~ soils and shall cause the
9 receiver site to be reclassified as a "dedicated site" unless the permittee or applicant can demonstrate, through soil
10 sampling and contaminant analytical procedures pursuant to 15A NCAC 02H .0800, that the petroleum contaminant
11 level in the upper eight inches of the receiver site soils is below either the ["soil-to-groundwater"]soil-to-groundwater
12 contaminant concentrations or the residential maximum soil contaminant concentrations established by the
13 Department pursuant to 15A NCAC 02L .0411, whichever is lower. ~~analytical detection levels.~~

14 (b) Land Application of Soil Containing Petroleum Products at Conventional Rates. Land application of soils
15 containing petroleum products at an application thickness greater than one inch shall require fertilization, liming, and
16 aeration of the ~~native soils and petroleum-contaminated soils mixture~~~~mixture of native and petroleum-contaminated~~
17 ~~soils.~~ Application thickness shall be based upon the nature of the receiver site soils, depth to the seasonal high water
18 table, the intended cover crop, and the source of contamination. Operation of the land application program shall not
19 result in contravention of groundwater or surface water standards. Subsequent application of ~~petroleum~~
20 ~~contaminated~~~~petroleum-contaminated~~ soils onto the same receiver site shall not occur for at least 18 months from the
21 date of the most recent application of ~~petroleum-contaminated~~~~petroleum-contaminated~~ soils and shall cause the
22 receiver site to be reclassified as a "dedicated site" unless the permittee or applicant can demonstrate, through soil
23 sampling and contaminant analytical procedures pursuant to 15A NCAC 02H .0800, that the petroleum contaminant
24 level in the upper eight inches of the receiver site soils is below either the ["soil-to-groundwater"]soil-to-groundwater
25 contaminant concentrations or the residential maximum soil contaminant concentrations established by the
26 Department pursuant to 15A NCAC 02L .0411, whichever is lower. ~~analytical detection levels.~~

27 (c) Disposal of Soils Containing Petroleum Products at Dedicated Land Application Sites. Subsequent applications
28 of ~~petroleum-contaminated~~~~petroleum-contaminated~~ soils at dedicated sites shall not recur until such time as it can be
29 demonstrated that additional applications of contaminated soils will not result in the contravention of any groundwater
30 or surface water standards.

31 (d) ~~Containment and Treatment and Containment and Utilization~~Containment, Treatment and Containment, and
32 Utilization of Contaminated Soil.

- 33 (1) A containment structure designed to bioremediate or volatilize contaminated soil shall be
34 constructed of either a synthetic liner of at least 30 mils thickness or of a ~~one-foot thick~~~~one-foot-~~
35 ~~thick~~ liner of natural material, compacted to at least 95 percent standard proctor dry density and with
36 a permeability of less than 1×10^{-7} cm/sec.

- 1 (2) The bottom of the containment structure shall be at least three feet above the seasonal high water
2 table or bedrock.
- 3 (3) A leachate collection system ~~must~~shall be installed in order to prevent runoff from the contaminated
4 soils within the containment structure, or a cover shall be provided to avoid accumulation of
5 stormwater within the containment structure.
- 6 (4) The containment structure shall be compatible with the chemical and physical properties of the
7 contaminants involved.
8

9 *History Note: Authority G.S. 143-215.1; 143-215.3(a);*
10 *Eff. September 1, ~~2006~~2006;*
11 *Readopted Eff. January 1, 2018.*

1 15A NCAC 02T .1506 is readopted with changes as published in 32:04 NCR 189 as follows:

2
3 **15A NCAC 02T .1506 SETBACKS**

4 Remediation systems shall adhere to the following ~~setbacks and greater where necessary~~ setbacks, unless greater
5 setbacks are required to comply with minimum horizontal distance requirements set by the Division pursuant to
6 Subchapter 15A NCAC 02L .0107:

	Feet
Any habitable residence or place of public assembly under separate ownership or not to be maintained as part of the project site	100
Any well with the exception of a Division approved Division-approved groundwater monitoring well	100
Surface waters (streams—intermittent and perennial,(such as intermittent and perennial streams, perennial waterbodies, and wetlands)	100
Surface water diversions (ephemeral(such as ephemeral streams, waterways, and ditches)	25
Groundwater lowering ditches (where the bottom of the ditch intersects the SHWT)seasonal high water table)	25
Subsurface groundwater lowering groundwater-lowering drainage systems	25
Any building foundation except treatment facilities	15
Any basement	15
Any property line	50
Any water line	10
Any swimming pool	100
Rock outcrops	25
Public right-of-way	50

25
26 *History Note: Authority G.S. 143-215.1; 143-215.3(a);*
27 *Eff. September 1, 2006-2006;*
28 *Readopted Eff. January 1, 2018.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02T .1507

DEADLINE FOR RECEIPT: Tuesday, December 5, 2017

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:

Line 12 – add a comma after “sites”

Lines 13, 15, and 17 – do not capitalize the beginning words in these lines.

Lines 14 and 19 – replace the periods with semicolons

Line 19 – add “and” after the semicolon

Lines 26-31 – consider revising as follows:

- (A) The applicant shall demonstrate to the permitting agency that all treated soil:
 - (i) has been remediated to below either the "soil-to-groundwater" or the residential maximum soil contaminant concentrations established by the Department pursuant to 15A NCAC 02L .0411, whichever is lower, based upon analysis of representative soil samples; or
 - (ii) is disposed of under Subparagraph (b)(4)(B) of this Rule.

Line 26 – in any event, replace “A demonstration by the applicant to the permitting agency” with “The applicant shall demonstrate to the permitting agency”

Page 2, line 1 – replace “A demonstration by the applicant to the permitting agency” with “The applicant shall demonstrate to the permitting agency”

Page 2, line 3 – delete the comma after “demonstration”

Page 2, line 6 – remove the underline before “shall”

Page 2, line 17 – delete the comma after “concern” and add a comma after “and” (I asked you to put the comma in the wrong place in my pre-review notes – sorry about that).

Jason Thomas
Commission Counsel
Date submitted to agency: November 17, 2017

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

Jason Thomas
Commission Counsel
Date submitted to agency: November 17, 2017

1 15A NCAC 02T .1507 is readopted with changes as published in 32:04 NCR 189 as follows:

2
3 **15A NCAC 02T .1507 CLOSURE REQUIREMENTS**

4 (a) A permit ~~must~~shall be ~~held~~held, and renewed if ~~necessary~~necessary, until such time that the soil remediation
5 facility has satisfied all conditions for closure and the permitting agency has notified the permit holder that the facility
6 has satisfied conditions necessary for closure and rescinded the permit. The permittee ~~must~~shall notify the permitting
7 agency 30 days prior to the initiation of closure activities. This Rule does not apply to ~~deemed permitted facilities as~~
8 ~~described in facilities that are deemed permitted pursuant to~~ Rule .1503 of this Section.

9 (b) A facility may be considered for closure ~~once~~if all of the following conditions have been satisfied:

10 (1) ~~Any and all~~All outstanding enforcement actions levied by the permitting agency have been resolved.

11 (2) Requirements for all other ~~related~~ on-site permitted activities have been met.

12 (3) For all land application sites the applicant shall provide to the permitting agency:

13 (A) ~~Demonstration~~A demonstration that no contaminant constituents in the groundwater
14 exceed groundwater standards for dedicated and conventional rate land application sites.

15 (B) ~~Demonstration~~A demonstration that all ~~remaining~~ contaminated soil has been remediated
16 to below ~~either the ["soil to groundwater"]~~soil-to-groundwater contaminant concentrations
17 or the residential maximum soil contaminant concentrations established by the Department
18 pursuant to 15A NCAC 02L .0411, whichever is lower.~~detection levels.~~ The demonstration
19 shall be based upon representative samples from the permitted site.

20 (C) If a groundwater drainage system or surface waters are present on the site or within the
21 compliance boundary, a demonstration that surface water ~~has not been impacted by~~does
22 not contain contaminants at concentrations in excess of those established in Subchapter
23 15A NCAC 02B.

24 (4) For facilities utilizing containment and treatment or portable self-contained treatment
25 ~~systems.~~systems:

26 (A) ~~Demonstration~~A demonstration by the applicant to the permitting agency that all treated
27 soil has been remediated to below ~~either the ["soil to groundwater"]~~soil-to-groundwater
28 contaminant concentrations or the residential maximum soil contaminant concentrations
29 established by the Department pursuant to 15A NCAC 02L .0411, whichever is
30 ~~[lower]~~lower.~~detection levels.~~ based upon analysis of representative soil samples or is
31 disposed of under Subparagraph (b)(4)(B) of this Rule.

32 (B) All remaining soil that contains contaminants at levels that exceed ~~either the ["soil to~~
33 ~~groundwater"]~~soil-to-groundwater contaminant concentrations or the residential maximum
34 soil contaminant concentrations established by the Department pursuant to 15A NCAC
35 02L .0411, whichever is ~~[lower]~~lower.~~the method detection levels.~~ ~~must~~shall be disposed
36 of at another permitted facility and the permitting agency ~~must~~shall be notified prior to
37 transport.

- (C) ~~Demonstration~~A demonstration by the applicant to the permitting agency that the facility has been decontaminated based upon analysis of samples.
- (5) For storage facilities, a ~~demonstration~~demonstration, that the storage facility has been decontaminated to below either the ~~["soil-to-groundwater"]~~soil-to-groundwater contaminant concentrations or the residential maximum soil contaminant concentrations established by the Department pursuant to 15A NCAC 02L .0411, whichever is ~~[lower]~~lower, detection levels shall be submitted by the permittee to the Division. The demonstration shall be based upon analysis of pollutants identified in the contaminated soil as provided in Rule .1504(a)(1) of this Section.
- (c) A facility that satisfies the conditions for closure may petition the permitting agency for ~~closure status approval~~approval of closure and shall provide the following information:
- (1) identification of the original permit ~~number~~ number authorizing the construction and operation of the soil remediation facility;
 - (2) the ~~reason(s)~~reason for closure of facility;
 - (3) the name and title of the ~~facility~~ contact;
 - (4) ~~sample analyses (tabulated and graphed)~~tabulated and graphed sample analyses for the last four groundwater sampling events prior to facility ~~shutdown~~shutdown, showing the concentrations of the parameters of ~~concern~~concern, and if groundwater monitoring is required at a land application site, groundwater analytical results for sample collection to satisfy ~~[Subparagraph]~~Part (b)(3)(A) of this Rule; Rule .1507(b)(3)(A);
 - (5) laboratory analytical results for soil samples collected from the treated ~~soil, which~~soil that have been analyzed by methods approved in accordance with Rule .1504(a)(1) of this Section;
 - (6) if a groundwater drainage ~~network (ditches)~~network, such as ditches, or surface waters are present on the site or within the compliance boundary, analytical results for surface water samples collected upstream of the facility, within the ~~facility if applicable,~~facility, and at a downstream location at the edge of the property to document that surface waters ~~have not been impacted;~~do not exceed the surface water quality standards and criteria established in Subchapter 15A NCAC 02B;
 - (7) decontamination procedures for ~~anyall~~ treatment or containment ~~structure;~~structures;
 - (8) a sedimentation and erosion control plan, prepared in accordance with the Division of Energy, Mineral, and Land Resources requirements pursuant to Subchapter 15A NCAC 04B, if a plan to restore the site to pre-soil treatment conditions is proposed that will disturb an area of land equal to or greater than one acre;
 - (9) a map of the ~~facility~~facility, ~~which~~ that shows the size, orientation, and location of the facility relative to existing monitor wells, roads, structures, and other site features; and
 - (10) certification that the closure has been accomplished and that the information submitted is complete, ~~factual~~factual, and accurate.
- (d) ~~Once the permitting agency has determined that all conditions required for site closure have been satisfied, the permitting agency shall issue a notice stating that the permit for the facility has been rescinded and "closure status"~~

1 ~~has been granted.~~ The permitting agency shall issue a notice approving the closure of a facility and stating that the
2 permit for the facility has been rescinded if the permitting agency has determined that the facility has met all applicable
3 requirements set forth in this Rule.

4
5 *History Note: Authority G.S. 143-215.1; 143-215.3(a);*
6 *Eff. September 1, 2006;*
7 *Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1(f));*
8 *Readopted Eff. January 1, 2018.*