

## **REQUEST FOR TECHNICAL CHANGE**

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02L .0202

**DEADLINE FOR RECEIPT: Friday, December 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 capitalize "state" on lines 4 and 6.*

*In (b)(1), I am reading this rule to say that if the standard set forth in this Rule allows for more than the practical quantitation limit, then the standard essentially becomes the practical quantitation limit? If that's correct, how is your regulated public to know? I see reference to this elsewhere in your Rules. Is it set forth elsewhere?*

*In (b)(2), line 13, how will the Director make this determination? I assume if he or she determines that there is a public health risk?*

*In (b)(3), what is meant by "as determined by the Director"? Do you need this language? If so, how is this to be determined?*

*In (c), please change "which" to "that" in "which have been determined..." on line 23 and in "which are not naturally" on line 24.*

*In (c), how is this determination made whether the concentration of the tracer is protective of human health?*

*In (c), is there a cross-reference available to the permitting of these tracers?*

*In (c), line 26, where can these "practical quantitation limits" be found? Is there a cross-reference available?*

*What is the intent and what is your authority for (c) in line 26 of page 1 through line 11 of page 2? I don't understand what is going on with the IMACs. This appears to provide for rulemaking outside of the rulemaking process set forth in the APA. I note that G.S. 143-214.1(e), within the cited authority, specifically says "Chapter 150B of the General Statutes governs the adoption and publication of rules under this Article."*

*What is your authority to require publication in the NC Register on line 7? Further, given the requirement in G.S. 143-214.1 that these standards go through the rulemaking*

*process set forth in the APA, what is your authority to set a different process? Are you essentially creating a petition for rulemaking rule pursuant to 150B-20?*

*In (d)(2), change “which” to “that” in “which corresponds”*

*In (d)(3) through (5), what are these limits? How does this work? Is the Integrated Risk Information System to be used, unless there isn’t a standard for one of the standards? Then the Health Advisories are to be used?*

*In (e), what is meant by “in order or preference”? What is actually being required here?*

*Please end (e) with a colon*

*Please end (e)(1) through (3) with a semi-colon and add “or” at the end of (e)(3).*

*In (f), what is this “public notice and opportunity for hearing”? Is this through the rulemaking process set forth in the APA?*

*In (f)(1), change “which” to “that”*

*In (f)(3), how is it to be determined whether it would “produce serious hardship”? What factors are to be used?*

*What is the purpose of (g)? Specifically, what is meant by lines 9-10? This appears to provide for rulemaking outside of rulemaking. I don’t see where there is authority. Also, what is meant by lines 10-13? This also appears to provide for rulemaking outside of the rulemaking process set forth in the APA.*

*In (g), line 12, please double check the cross-reference to Paragraphs (d) and (e). Should it be Paragraph (c)?*

*In (h), please add a comma after “colloidal”*

*In (h), line 15, change “which” to “that” in “which is mobile” on line 15 and “which is preserved” on line 16.*

*On line 15, what is meant by “this”? This Paragraph?*

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