subchapter 02t – waste not discharged to surface waters

section .0100 – general requirements

15A NCAC 02T .0101 is proposed for readoption.

15A NCAC 02T .0101 PURPOSE

The rules in this Subchapter set forth the requirements and procedures for application and issuance of permits for the following systems which do not discharge to surface waters of the state:

(1) sewer systems;

(2) disposal systems;

(3) treatment works;

(4) residual and residue disposal/utilization systems;

(5) animal waste management systems;

(6) treatment of contaminated soils; and

(7) stormwater management systems pursuant to 15A NCAC 2H .1000.

History Note: Authority G.S. 143‑215.1; 143‑215.3(a)(1);

Eff. September 1, 2006.

15A NCAC 02T .0102 is proposed for readoption.

15A NCAC 02T .0102 SCOPE

The rules in this Subchapter apply to all persons proposing to construct, alter, extend, or operate any sewer system, treatment works, disposal system, contaminates soil treatment system, animal waste management system, stormwater management system or residual disposal/utilization system which does not discharge to surface waters of the state. ~~state, including systems which discharge waste onto or below land surface~~. However, these Rules do not apply to sanitary sewage systems or solid waste management facilities which are permitted under the authority of the Commission for Public Health. The provisions for stormwater NPDES systems that discharge to wasters of the State ~~management systems~~ can be found in 15A NCAC 02H .1000. The rules in this Section are general requirements that apply to all program rules (found in individual sections) in this Subchapter.

History Note: Authority G.S. 130A‑335; 143‑215.1; 143‑215.3(a)(1);

Eff. September 1, 2006.

15A NCAC 02T .0103 is proposed for readoption.

**15A NCAC 02T .0103       DEFINITIONS**  
The terms used in this Subchapter shall be as defined in G.S. 143-212 and 143‑213 except as provided in this Rule and in definitions provided in program specific rules in this Subchapter and as follows:

(1)           "Agronomic rate" is defined as the amount of waste and other materials applied to meet the nitrogen needs of the crop, but does not overload the soil with nutrients or other constituents that cause or contribute to a contravention of surface water or groundwater standards, limit crop growth, or adversely impact soil quality.  Nitrogen needs of the crop shall be based on realistic yield expectations (RYE) established for a soil series through published Cooperative Extension Service bulletins, Natural Resources Conservation Service publications, county soil surveys, or site specific agronomist reports.

(2)           "Animal waste" means livestock or poultry excreta or a mixture of excreta with feed, bedding, litter or other materials generated at a feedlot.

(3)           "Bedrock" is as defined in 15A NCAC 02L .0102.

(4)           "Buffer" means a natural or vegetated area as defined in 15A NCAC 02B .0202.

(5)           "CFR" means Code of Federal Regulations. ~~All CFRs cited herein may be obtained at Government Institutes, Inc., 4 Research Place, Suite 200, Rockville, Md, 20850-1714 for a cost of thirty-six dollars ($36.00) each plus four dollars ($4.00) shipping and handling or at~~ [~~http://www.gpoaccess.gov/cfr/~~](http://www.gpoaccess.gov/cfr/)~~. Copies are also available for review at 512 North Salisbury Street, Raleigh, North Carolina 27604.~~

(6) "Commission" as defined in G.S. 143-212 or their delegate.

(7) "Compliance boundary" is as defined in 15A NCAC 02L .0102.

(8) "Deemed permitted" means that a facility is considered as having a needed permit and being compliant with the permitting requirements of G.S. 143‑215.1(a) even though it has not received an individual permit for its construction or operation.

(9) "Department" as defined in G.S. 143-212.

(10) "Director" means the Director of the Division or its delegate.

(11) "Division" means the Division of Water ~~Quality~~ Resources in the Department. ~~All rules cited in this Section under the authority of the Division may be obtained at 512 North Salisbury Street, Raleigh, North Carolina 27604 or at the Division's web page at www.ncwaterquality.org at no charge.~~

(12)         "Effluent" means wastewater discharged following all treatment processes from a water pollution control facility or other point source whether treated or untreated.

(13)         "Engineer" is an individual who is currently licensed by the North Carolina Board of Examiners For Engineers and Land Surveyors or authorized to practice under G.S. 89C as an engineer.

(14)         "EPA" means the United States Environmental Protection Agency.

(15)         "Ephemeral (stormwater) stream" means a stream as defined in 15A NCAC 02B .0233.

(16)         "Essential treatment unit" means any unit associated with the wastewater treatment process whose loss would likely render the facility incapable of meeting the required performance criteria including aeration units or other main treatment units, clarification equipment, filters, disinfection equipment, pumps and blowers.

(17)         "General Permit" means a permit issued under G.S. 143‑215.1(b)(3), 143-215.1(b)(4) or 143-215.10C.

(18)         "Groundwaters" means those waters in the saturated zone of the earth as defined in 15A NCAC 02L .0102.

(19)         "Groundwater standards" means groundwater standards as established in 15A NCAC 02L .0200.

(20)         "Industrial wastewater" means all wastewater other than sewage or animal waste and includes:

(a)           wastewater resulting from any process of industry or manufacture, or from the development of any natural resource;

(b)           wastewater resulting from processes of trade or business, including wastewater from laundromats and vehicle/equipment washes, but not wastewater from restaurants;

(c)           stormwater that is contaminated with an industrial wastewater;

(d)           any combination of sewage and industrial wastewater;

(e)           municipal wastewater unless it can be demonstrated to the satisfaction of the Division that the wastewater contains no industrial wastewater;

(f)            contaminated groundwater extracted as part of an approved groundwater remediation system approved by the Division in accordance with 15A NCAC 02L .0100.

(21)         "Intermittent stream" means a stream as defined in 15A NCAC 02B .0233.

(22)         "NPDES" means National Pollutant Discharge Elimination System.

(23)         "Perennial stream" means a stream as defined in 15A NCAC 02B .0233.

(24)         "Perennial waterbody" means a waterbody as defined in 15A NCAC 02B .0233.

(25)         "Pollutant" means waste as defined in G.S. 143‑213.

(26)         "Potable waters" means water as defined in 15A NCAC 02L .0102.

(27)         "Private well" means any potable or irrigation well not directly controlled by a public authority or a public utility authorized by the North Carolina Public Utilities Commission.  This may include a private individual or community well as defined in the public water supply rules contained in 15A NCAC 18C.

(28)         "Professional engineer" means a person who is presently registered and licensed as a professional engineer by the North Carolina Board of Examiners For Engineers and Land Surveyors.

(29)         "Public or community sewage system" means a single system of sewage collection, treatment, or disposal owned and operated by a sanitary district, a metropolitan sewage district, a water and sewer authority, a county, a municipality or a public utility authorized to operate by the North Carolina Utilities Commission.

(30)         "Residuals" means any solid, semisolid, or liquid waste, other than effluent or residues from agricultural products and processing, generated from a wastewater treatment facility, water supply treatment facility or air pollution control facility permitted under the authority of the Commission.

(31)         "Residues from agricultural products and processing" means solids, semi‑solids or liquid residues from food and beverage processing and handling; silviculture; agriculture; and aquaculture operations permitted under the authority of the Commission that are non‑toxic, non‑hazardous and contain no domestic wastewater.

(32)         "Restrictive horizon" is the layer in a soil profile that is capable of reducing the downward water movement to the minimum rate, as evidenced by lowest saturated hydraulic conductivity among all the soil layers.  Restrictive horizon is often capable of perching ground water or wastewater effluent and is characterized by accumulation of finer soil particles (such as aluminum, clay, iron, silica, organic matter, or other compounds) or compaction due to heavy equipment~~s~~.

(33)         "Review boundary" is as defined in 15A NCAC 02L .0102.

(34)         "Seasonal High Water Table" or "SHWT" is the highest level to which the soil is saturated, as may be determined through the identification of redoximorphic features in the soil profile including low chroma mottling. This does not include temporary perched conditions. Alternatively, the SHWT can also be determined from water level measurements or via soil/groundwater modeling.

(35)         "Secretary" as defined in G.S. 143-212 or its delegate.

(36)         "Setback" means the minimum separation in linear feet, measured on a horizontal plane, required between a treatment works, disposal system, or utilization system and physical features such as building, roads, property lines, or water bodies.

(37)         "Sewage" means the liquid and solid human waste, and liquid waste generated by domestic water‑using fixtures and appliances, from any residence, place of business, or place of public assembly.  Sewage does not include wastewater that is totally or partially industrial wastewater, or any other wastewater not considered to be domestic waste.

(38)         "Soil scientist" means an individual who is currently licensed or authorized to practice soil science under G.S. 89F by the North Carolina Board for Licensing of Soil Scientists.

(39)         "Staff" means the staff of the Division.

(40)         "Surface waters" means all waters as defined in G.S. 143‑212 except underground waters.

(41)         "Surface water standards" means surface water standards as established in 15A NCAC 02B .0200.

(42)         "Technical specialist" means an individual designated by the Soil and Water Conservation Commission, pursuant to rules adopted by that Commission, to certify animal waste management plans or specific parts of a certified animal waste management plan.

(43)         "Toxicity test" means a test for toxicity conducted using the procedures contained in 40 CFR 261, Appendix II which is hereby incorporated by reference including any subsequent amendments and editions.

(44)         "Treatment works or disposal system which does not discharge to surface waters" means any treatment works, facility, utilization system, or disposal system which is designed to:

(a)           operate as closed system with no discharge to waters of the state, or

(b)           dispose/utilize of wastes, including residuals, residues, contaminated soils and animal waste, to the surface of the land, or

(c)           dispose of wastes through a subsurface disposal system pursuant to G.S. 143-215.1(b)(4).

(45)         "Waste oil" means any used nonhazardous petroleum product other than crankcase oil.  Crankcase oil mixed with other used nonhazardous petroleum products shall be considered as waste oil.

(46)         "Wetlands" are "waters" as defined in G.S. 143-212 and are areas that are inundated or saturated by an accumulation of surface or ground water as defined in 15A NCAC 02B .0202.

History Note: Authority G.S. 130A‑335; 143‑213; 143‑215.3(a)(1);

Eff. September 1, 2006.

15A NCAC 02T .0104 is proposed for readoption.

15A NCAC 02T .0104 ACTIVITIES WHICH REQUIRE A PERMIT

~~No person shall do any of the things or carry out any of the activities contained in G.S. 143‑215.1(a) until or unless the person shall have applied for and received a permit from the Division (or if appropriate a local program approved by the Division pursuant to this Subchapter) or the activity is for the processing of agricultural products exempt from permitting by G.S. 142-215.1(a5) and shall have complied with the conditions prescribed in the permit or is deemed permitted by rules in this Subchapter.~~

History Note: Authority G.S. 130A‑335; 143‑215.1; 143‑215.3(a)(1);

Eff. September 1, 2006.

15A NCAC 02T .0105 is proposed for readoption.

15A NCAC 02T .0105 GENERAL REQUIREMENTS

(a) Jurisdiction. Applications for permits from the Division shall be made in accordance with this Rule. Applications for permits under the jurisdiction of a local program shall be made in accordance with the requirements of the Division approved program.

(b) Applications. Application for a permit must be made on Division forms completely filled out, where applicable, and fully executed in the manner set forth in Rule .0106 of this Section. A processing fee as described in G.S. 143-215.3D must be submitted with each application in the form of a check or money order made payable to the Department. Applications shall be returned if incomplete. Sewer line extensions shall be applied for separately from treatment, utilization, and disposal systems. The Applicant ~~applicant~~ shall provide adequate documentation to the Division to ensure that the proposed system will meet all design and performance criteria as required under this Subchapter and other applicable rules, be operated as a non-discharge system, and protect surface water and groundwater standards. Variances to this Subchapter or adopted design criteria must be specifically requested in the application and, if approved pursuant to Paragraph (n) of this Rule, incorporated into the permit. The Division may accept certification from a licensed or certified professional (e.g. Professional Engineers, Licensed Soil Scientist, Licensed Geologist, Technical Specialist) that the design meets or exceeds minimum design criteria applicable to the project. Division acceptance of certifications by the Applicant ~~applicant~~ or by licensed or certified professionals preparing reports for the application shall not constitute approval of a variance to this Subchapter or applicable minimum design and performance criteria unless specifically requested in the application and approved in the permit.

(c) Application packages for new and expanding facilities shall include the following items:

(1) The number of executed copies shall include the number necessary for each review office and one additional copy. Additional copies shall be required if needed for federal and state grant and loan projects.

(2) Reports, engineering plans, specifications, and calculations as required by the applicable rules of this Subchapter. If prepared by licensed or certified professionals these reports shall be submitted in accordance with the respective statutes and rules governing that profession.

(3) Operational agreements as required by Rule .0115 of this Section.

(4) For projects that require environmental documentation pursuant to the North Carolina Environmental Policy Act, a final environmental document (Finding of No Significant Impact or Record of Decision).

(5) A general scaled location map, showing orientation of the facility with reference to at least two geographic references (e.g. numbered roads, named streams/rivers).

(6) Documentation that other directly related (i.e. needed to properly construct and operate the facilities permitted under this Subchapter) environmental permit or certification applications are being prepared, have been applied for, or have been obtained (e.g. 401 certifications, erosion and sedimentation control plans, stormwater management plans). The Division shall consider the application incomplete or issue the permit contingent on issuance of the dependent permits if issuance of other permits or certifications impact the system permitted under this Subchapter.

(7) A description of the project including the origin, type and flow of waste to be treated. For industrial processing facilities, a waste analysis extensive enough to allow a complete evaluation of the system's capability to treat the waste and any potential impacts on the waters of the state shall be included.

(8) Documentation of compliance with Article 21 Part 6 (Floodway Regulations) of Chapter 143 of the General Statutes.

(9) Documentation as required by other applicable rule(s) in this Subchapter.

(10) Documentation of the presence or absence of threatened or endangered aquatic species utilizing information provided by the Natural Heritage Program of the Department. This shall only apply to the area whose boundary is encompassed by and for the purpose of installation, operation, and maintenance of facilities permitted herein (wastewater collection, treatment, storage, utilization, or disposal). This documentation shall provide information on the need for permit conditions pursuant to Paragraph (i) of this Rule. ~~The Natural Heritage Program can be contacted at http://www.ncnhp.org or write to Natural Heritage Program, 1601 Mail Service Center, Raleigh, NC 27699-1601.~~

(d) Application packages for renewals shall include updated site plans (if required as part of original submittal).

(e) Application and annual Fees.

(1) Application Fee. For every application for a new or major modification of a permit under this Section, a nonrefundable application processing fee in the amount provided in G.S. 143-215.3D shall be submitted to the Division by the Applicant ~~applicant~~ at the time of application. For a facility with multiple treatment units under a single permit, the application fee shall be set by the total design treatment capacity. Modification fees shall be based on the projected annual fee for the facility.

(2) Annual Fees. An annual fee for administering and compliance monitoring shall be charged in each year of the term of every renewable permit according to the schedule in G.S. 143-215.3D(a). Annual fees must be paid for any facility operating on an expired permit that has not been rescinded or revoked by the Division. Permittees shall be billed annually by the Division. A change in the facility which changes the annual fee shall result in the revised annual fee being billed effective with the next anniversary date.

(3) Failure to pay an annual fee within 30 days after being billed shall be cause for the Division to revoke the permit.

(f) Designs for facilities permitted under this Section shall use the practicable waste treatment and disposal alternative with the least adverse impact on the environment in accordance with G.S. 143-215.1(b)(2).

(g) In order to protect Publicly Owned Treatment Works, the Division shall incorporate pretreatment requirements under 15A NCAC 2H .0900 into the permit.

(h) Setbacks and required separation distances shall be provided as required by individual rules in this Subchapter. Setbacks to streams (perennial and intermittent), perennial waterbodies, and wetlands shall be determined using the methodology set forth in 15A NCAC 02B .0233(4)(a). Setbacks to wells are for those wells outside the compliance boundary. Where wells and subsurface groundwater lowering drainage systems would otherwise be inside the compliance boundary as established in 15A NCAC 02L .0107, the Applicant ~~applicant~~ may request the compliance boundary be established closer to the waste disposal area and this shall be granted provided the groundwater standards can be met at the newly established compliance boundary.

(i) Permits may provide specific conditions to address the protection of threatened or endangered aquatic species as provided in plans developed pursuant in 15A NCAC 02B .0110 if the construction and operation of the facility directly impacts such species.

(j) The Permittee ~~permittee~~ shall keep permits active until the waste treatment systems authorized by the permit are properly closed or subsequently permitted under another permit issued by the appropriate permitting authority for that activity.

(k) Monitoring of waste and surface waters shall be in accordance with 15A NCAC 02B .0505 except as otherwise provided by specific rules in this Subchapter.

(l) Reporting shall be in accordance with 15A NCAC 02B .0506 except as otherwise provided by specific rules in this Subchapter.

(m) Monitoring of groundwater shall be in accordance with Sections 15A NCAC 02L .0100 and 15A NCAC 02C .0100 except as otherwise provided by specific rules in this Subchapter.

(n) The Director shall approve alternative Design Criteria and Application Submittal requirements in cases where the Applicant ~~applicant~~ can demonstrate that the alternative ~~design criteria~~ will provide the following:

(1) equal or better treatment of the waste;

(2) equal or better protection of the waters of the state; and

(3) no increased potential for nuisance conditions from noise, odor or vermin.

(o) The Permittee shall retain the Division approved plans and specifications for the life of the facility.

History Note: Authority G.S. 143‑215.1; 143‑215.3(a);

Eff. September 1, 2006.

15A NCAC 02T .0106 is proposed for readoption.

15A NCAC 02T .0106 SUBMISSION OF PERMIT APPLICATIONS

(a) Permit applications, supporting information, and processing fee for permits issued by the Division shall be filed with the Division. Applications for permits from a Division approved local permitting program shall be submitted directly to the local program director. Division permit processing fees are not required for permits issued by delegated local permitting programs.

(b) Permit applications shall be signed as follows:

(1) in the case of corporations, by a principal executive officer of at least the level of vice‑president, or his authorized representative;

(2) in the case of a partnership or a limited partnership, by a general partner;

(3) in the case of a sole proprietorship, by the proprietor;

(4) in the case of a municipal, state, or other public entity by either an executive officer, elected official in the highest level of elected office, or other authorized employee.

(c) Delegation of other authorized employees or any employee in a specific position (i.e. signing officials) shall be provided in letter format to the Division signed by an authorized person pursuant to Paragraph (b) of this Rule. The delegation may be for a specific permit application or more general for certain or all types of water quality permits. The letter shall identify the extent of delegation.

History Note: Authority G.S. 143‑215.3(a)(1); 143‑215.1;

Eff. September 1, 2006.

15A NCAC 02T .0107 is proposed for readoption.

15A NCAC 02T .0107 STAFF REVIEW AND PERMIT PREPARATION

(a) The staff of the Division shall conduct a review of plans, specifications and other project data accompanying the application and shall determine if the application and required information are complete. The staff shall acknowledge receipt of a complete application except for fast-track sewer applications. The local government unit or units having jurisdiction over specific residential projects shall be notified of permit applications in accordance with G.S. 143‑215.1(d1).

(b) If the application is not complete with all required information and application fee, the application shall be returned to the Applicant ~~applicant~~. The staff shall advise the Applicant ~~applicant by mail~~:

(1) how the application or accompanying supporting information may be modified to make it acceptable or complete;

(2) that the 90 day processing period required in G.S. 143‑215.1 and Rule .0108 of this Section begins upon receipt of corrected or complete application with required supporting information.

(c) Pursuant to G.S. 143‑215.67(a), the staff of the Division shall determine for sewer system construction or sewer system extensions, whether the treatment works or the sewer system to which the proposed system will discharge is adequate to receive waste which will be discharged from the proposed system.

(d) For new and expanding treatment works and disposal systems, the staff shall make a site‑specific evaluation to determine the potential impacts of the proposed project on surface and ground water quality. The Applicant ~~applicant~~ must make the site accessible to the Division.

(e) If an application is accepted and later found to be incomplete, the Applicant ~~applicant~~ shall be advised how the application or accompanying supporting information may be modified to make it acceptable or complete. The staff shall advise the Applicant ~~applicant by mail~~:

(1) that the 90 day processing period required in G.S. 143-215.1(d) and Rule .0108 of this Section begins on the date the additional information is received;

(2) that if all required information is not submitted within 30 days, the project will be returned as incomplete. Any resubmittal of a returned application must be accompanied with a new application fee.

History Note: Authority G.S. 143‑215.1(b); 143‑215.1(d); 143‑215.3(a)(1); 143‑215.3(a)(4);

Eff. September 1, 2006.

15A NCAC 02T .0108 is proposed for readoption.

15A NCAC 02T .0108 FINAL ACTION ON PERMIT APPLICATIONS TO THE DIVISION

(a) The Director shall take final action on all applications not later than 90 days following receipt of a complete application and with required information. All permits or renewals of permits and decisions denying permits or renewals shall be in writing.

(b) The Director may:

(1) issue a permit containing such conditions as are necessary to effectuate the purposes of Article 21, Chapter 143 of the General Statutes;

(2) issue a permit containing time schedules for achieving compliance with applicable effluent standards and limitations, surface water or groundwater standards and other legally applicable requirements;

(3) deny a permit application where necessary to effectuate:

(A) the purposes of Article 21, Chapter 143;

(B) the purposes of G.S. 143‑215.67(a);

~~(C) rules on coastal waste treatment, disposal, found in Section 15A NCAC 02H .0400;~~

(C)~~(D)~~ rules on groundwater quality standards found in Subchapter 02L of this Chapter.

(4) hold public meetings when necessary to obtain additional information needed to complete the review of the application. The application shall be considered as incomplete until the close of the meeting record.

(c) The Division may require any monitoring and reporting requirements, including groundwater, surface water or wetlands, waste, wastewater, residuals ~~sludge~~, soil, treatment process, lagoon/storage pond, and plant tissue, necessary to determine the source, quantity and quality of the waste and its effect upon the surface water, ground waters or wetlands. All reports must be submitted on Division supplied forms or forms approved by the Division as providing the same information as required by the Division's forms.

(d) If a permit is denied, the letter of denial shall state the reason(s) for denial and any reasonable measures which the Applicant ~~applicant~~ may take to make the application approvable.

(e) All permits requiring an annual fee shall be issued for a time period not to exceed ~~five~~ eight years.

History Note: Authority G.S. 143‑215.1(a); 143‑215.1(b); 143‑215.1(d); 143‑215.3(a)(1);

Eff. September 1, 2006.

15A NCAC 02T .0109 is proposed for readoption.

15A NCAC 02T .0109 PERMIT RENEWALS

Requests for permit renewals shall be submitted to the Director at least 180 days prior to expiration unless the permit has been revoked by the Director in accordance with Rule .0110 of this Section or a request has been made to rescind the permit. Renewal requests shall be made in accordance with Rule .0105 and Rule .0106 of this Section.

History Note: Authority G.S. 143‑215.3(a)(1);

Eff. September 1, 2006.

15A NCAC 02T .0110 is proposed for readoption.

15A NCAC 02T .0110 MODIFICATION AND REVOCATION OF PERMITS

Any permit issued by the Division pursuant to this Subchapter is subject to revocation, or modification upon 60 days notice by the Director in whole or part for the following reasons:

(1) violation of any terms or conditions of the permit or this subchapter;

(2) obtaining a permit by misrepresentation or failure to disclose fully all relevant facts;

(3) refusal of the Permittee ~~permittee~~ to allow authorized employees of the Department upon presentation of credentials:

(a) to enter upon Permittee’s ~~permittee’s~~ premises on which a system is located in which any records are required to be kept under terms and conditions of the permit;

(b) to have access to any documents and records required to be kept under terms and conditions of the permit;

(c) to inspect any monitoring equipment or method required in the permit; or

(d) to sample any pollutants.

(4) failure to pay the annual fee for administering and compliance monitoring;~~.~~

(5) a determination by the Division that the conditions of the permit are in conflict with Administrative Code or Statute.

History Note: Authority G.S. 143‑215.1(b)(2.); 143‑215.3(a)(1);

Eff. September 1, 2006.

15A NCAC 02T .0111 is proposed for readoption.

15A NCAC 02T .0111 CONDITIONS FOR ISSUING GENERAL PERMITS

(a) In accordance with the provisions of G.S. 143-215.1(b), (c) and (d), general permits may be developed by the Division and issued by the Director for categories of activities covered by this Subchapter. General permits may be written for categories of activities that involve the same or substantially similar operations, have similar treated waste characteristics, require the same limitations or operating conditions, and require the same or similar monitoring. After issuance of a general permit by the Director, persons operating facilities described by the general permit may request coverage under it, and the Director or his designee may grant appropriate certification. All individual operations which receive a "Certificate of Coverage" under a general permit are permitted under the specific general permit for which the coverage was issued. A Certificate of Coverage shall mean that approval is given to facilities that meet the requirements of coverage under the general permit. Persons operating facilities covered under general permits developed in accordance with this Rule shall be subject to the same limits, conditions, management practices, enforcement authorities, and rights and privileges as specified in the general permit.

(b) Upon development of a draft general permit, the Director shall publicly notice under G.S. 143-215.4 (b)(1) and (2), at least 30 days prior to final action, an intent to issue the general permit. ~~A one time publication of the notice in a newspaper having general circulation in the geographic areas affected by the proposed permit shall be required.~~ The notice shall provide the name, address and phone number of the Division, a brief description of the intended action, and a brief description of the procedures for the formulation of final determinations, including a 30-day comment period and other means by which interested persons may comment upon the determinations.

(c) No provisions in any general permit issued under this Rule shall be interpreted as allowing the Permittee ~~permittee~~ to violate state surface water standards, groundwater standards outside a Compliance Boundary established in accordance with 15A NCAC 02L .0107, or other applicable environmental Rules. Construction of new water supply wells for human consumption shall be prohibited within Compliance Boundaries for facilities covered under general permits issued under this Section. General permits issued pursuant to this Rule shall be considered individual permits for purposes of Compliance Boundaries established under 15A NCAC 02L .0107.

(d) To obtain an individual Certificate of Coverage, a Notice of Intent to be covered by the general permit must be given by the Applicant ~~applicant~~ to the Division using forms provided by the Division. Coverage under the general permit shall be granted unless the Director makes a determination under Paragraph (h) of this Rule that an individual permit is required. If all requirements are not met, an individual permit application and full application review procedure shall be required.

(e) General permits shall be effective for a term not to exceed ~~five~~ eight years at the end of which the Division may renew them. The Division shall satisfy public notice requirements specified in Paragraph (b) of this Rule prior to renewal of general permits. If the Division does not renew a general permit, all operations covered under that general permit shall be notified to submit applications for individual permits.

(f) Anyone engaged in activities covered by the general permit rules but not permitted in accordance with this Subchapter shall be in violation of G.S. 143-215.1.

(g) Any individual covered or considering coverage under a general permit may choose to pursue an individual permit for any operation covered by this Rule.

(h) The Director may require any person, otherwise eligible for coverage under a general permit, to apply for an individual permit by notifying that person that an application is required. Notification shall consist of a written description of the reason(s) for the decision, appropriate permit application forms and application instructions, a statement establishing the required date for submission of the application, and a statement informing the person that coverage by the general permit shall automatically terminate upon issuance of the individual permit. Reasons for requiring application for an individual permit include:

(1) the operation is a significant contributor of pollutants to the waters of the state;

(2) conditions at the permitted site change, altering the constituents or characteristics of the wastewater such that the operation no longer qualifies for coverage under a general permit;

(3) noncompliance with the general permit;

(4) noncompliance with the Commission rules in this Chapter;

(5) a change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the operation;

(6) a determination by the Division that there has been or is the potential to have a direct discharge of wastewater, ~~sludge~~ or residuals to waters of the state;

(7) the system has been allowed to deteriorate or leak such that it poses an immediate threat to the environment.

(i) General permits or individual Certificate of Coverages may be modified, terminated, or revoked and reissued in accordance with the authority and requirements of rules of this Subchapter.

History Note: Authority G.S. 143-215.1; 143-215.3(a)(1); 143-215.10C;

Eff. September 1, 2006.

15A NCAC 02T .0112 is proposed for readoption.

15A NCAC 02T .0112 DELEGATION OF AUTHORITY

For permits issued by the Division, the Director is authorized to delegate any or all of the functions contained in the rules of this Subchapter except the following:

(1) denial of a permit application;

(2) revocation of a permit not requested by the Permittee ~~permittee~~;

(3) modification of a permit not requested by the Permittee ~~permittee~~.

History Note: Authority G.S. 143‑215.3(a)(1); 143‑215.3(a)(4);

Eff. September 1, 2006.

15A NCAC 02T .0113 is proposed for readoption.

15A NCAC 02T .0113 PERMITTING BY REGULATION

(a) The following disposal systems as well as those in Permitting By Regulation rules in this Subchapter (i.e., Rules .0203, .0303, .0403, ~~.1003,~~ .1103, .1203, .1303, .1403, and .1503) are deemed to be permitted pursuant to G.S. 143-215.1(b) and it shall not be necessary for the Division to issue individual permits or coverage under a general permit for construction or operation of the following disposal systems provided the system does not result in any violations of surface water or groundwater standards, there is no direct discharge to surface waters, and all criteria required for the specific system is met:

(1) Swimming pool and spa filter backwash and drainage, filter backwash from aesthetic fountains, filter backwash from commercial or residential water features such as garden ponds or fish ponds that is discharged to the land surface;

(2) Backwash from raw water intake screening devices that is discharged to the land surface;

(3) Condensate from residential or commercial air conditioning units that is discharged to the land surface;

(4) Discharges to the land surface from individual non-commercial car washing operations;

(5) Discharges to the land surface from flushing and hydrostatic testing water associated with utility distribution systems, new sewer extensions or new reclaimed water distribution lines;

(6) Street wash water that is discharged to the land surface;

(7) Discharges to the land surface from firefighting ~~fire fighting~~ activities;

(8) Discharges to the land surface associated with emergency removal and treatment activities for spilled oil authorized by the federal or state on-scene coordinator when such removals are undertaken to minimize overall environmental damage due to an oil spill;

(9) Discharges to the land surface associated with biological or chemical decontamination activities performed as a result of an emergency declared by the Governor or the Director of the Division of Emergency Management and that are conducted by or under the direct supervision of the federal or state on-scene coordinator and that meet the following criteria:

(A) the volume produced by the decontamination activity is too large to be contained onsite;

(B) the Division is informed prior to commencement of the decontamination activity; and

(C) the wastewater is not radiologically contaminated or classified as hazardous waste;

(10) Drilling muds, cuttings and well water from the development of wells or from other construction activities including directional boring;

(11) Purge water from groundwater monitoring wells;

(12) Composting facilities for dead animals, if the construction and operation of the facilities is approved by the North Carolina Department of Agriculture and Consumer Services; the facilities are constructed on an impervious, weight-bearing foundation, operated under a roof; and the facilities are approved by the State Veterinarian pursuant to G.S. 106-403;

(13) Overflow from elevated potable water storage facilities;

(14) Mobile carwashes if:

(A) all detergents used are biodegradable;

(B) no steam cleaning, engine or parts cleaning is being conducted;

(C) notification is made prior to operation by the owner to the municipality or if not in a municipality then the county where the cleaning service is being provided; and

(D) ~~all~~ non-recyclable washwater is collected and discharged into a sanitary sewer or wastewater treatment facility upon approval of the facility's owner such that no ponding or runoff of the washwater occurs;

(15) Mine tailings where no chemicals are used in the mining process;

(16) Mine dewatering where no chemicals are used in the mining process; ~~and~~

(17) Wastewater created from the washing of produce, with no further processing on-site, on farms where the wastewater is irrigated onto fields so as not to create runoff or cause a discharge; and

(18) Discharges to the land surface of less than 5,000 gallons per week of backwash waster from greensand or other small type filters, not to include conventional filters, reverse osmosis, and ion exchange filters, at potable water wells provided ponding or runoff does not occur, and the backwash does not contain radioactive material or arsenic.

(19) Discharges to the land surface of less than 350 gallons per week of backwash water from reverse osmosis, ion exchange filters, greensand filters or other small type filters at private drinking water wells serving single-family residences provided ponding or runoff does not occur.

(b) Nothing in this Rule shall be deemed to allow the violation of any assigned surface water, groundwater, or air quality standards, and in addition any such violation shall be considered a violation of a condition of a permit. Further, nothing in this Rule shall be deemed to apply to or permit disposal systems for which a state NPDES permit is otherwise required.

(c) Any violation of this Rule or discharge to surface waters from the disposal systems listed in Paragraph (a) of this Rule or the activities listed in other Permitted By Regulation rules in this Subchapter shall be reported in accordance with 15A NCAC 02B .0506.

(d) Disposal systems deemed permitted under this Subchapter shall remain deemed permitted, notwithstanding any violations of surface water or groundwater standards or violations of this Rule or other Permitted By Regulation rules in this Subchapter, until such time as the Director determines that they should not be deemed permitted in accordance with the criteria established in this Rule.

(e) The Director may determine that a disposal system should not be deemed to be permitted in accordance with this Rule or other Permitted By Regulation rules in this Subchapter and require the disposal system to obtain an individual permit or a certificate of coverage under a general permit. This determination shall be made based on existing or projected environmental impacts, compliance with the provisions of this Rule or other Permitted By Regulation rules in this Subchapter, and the compliance history of the facility owner.

History Note: Authority G.S. 130A-300; 143-215.1(a)(1); 143-215.1(b)(4)(e); 143-215.3(a),(d);

Eff. September 1, 2006;

Amended Eff. June 18, 2011.

15A NCAC 02T .0114 is proposed for readoption.

15A NCAC 02T .0114 WASTEWATER DESIGN FLOW RATES

(a) This Rule shall be used to determine wastewater flow rates for all systems covered by this Subchapter unless alternate criteria are provided by a program specific rule and for flow used for the purposes of 15A NCAC 02H .0105. These are minimum design daily flow rates for normal use and occupancy situations. Higher flow rates may be required where usage and occupancy are atypical, including, those in Paragraph (e) of this Rule. Wastewater flow calculations must take hours of operation and anticipated maximum occupancies/usage into account when calculating peak flows for design.

(b) In determining the volume of sewage from dwelling units, the flow rate shall be 120 gallons per day per bedroom. The minimum volume of sewage from each dwelling unit shall be 240 gallons per day and each additional bedroom above two bedrooms shall increase the volume by 120 gallons per day. Each bedroom or any other room or addition that can reasonably be expected to function as a bedroom shall be considered a bedroom for design purposes. When the occupancy of a dwelling unit exceeds two persons per bedroom, the volume of sewage shall be determined by the maximum occupancy at a rate of 60 gallons per person per day.

(c) The following table shall be used to determine the minimum allowable design daily flow of wastewater facilities. Design flow rates for establishments not identified below shall be determined using available flow data, water‑using fixtures, occupancy or operation patterns, and other measured data.

Type of Establishments Daily Flow For Design

Barber and beauty shops

Barber Shops 50 gal/chair

Beauty Shops 125 gal/booth or bowl

Businesses, offices and factories

General business and office facilities 25 gal/employee/shift

Factories, excluding industrial waste 25 gal/employee/shift

Factories or businesses with showers or food preparation 35 gal/employee/shift

Warehouse 100 gal/loading bay

Warehouse – self storage (not including caretaker residence) 1 gal/unit

Churches

Churches without kitchens, day care or camps 3 gal/seat

Churches with kitchen 5 gal/seat

Churches providing day care or camps 25 gal/person (child & employee)

Fire, rescue and emergency response facilities

Fire or rescue stations without on site staff 25 gal/person

Fire or rescue stations with on-site staff 50 gal/person/shift

Food and drink facilities

Banquet, dining hall 30 gal/seat

Bars, cocktail lounges 20 gal/seat

Caterers 50 gal/100 sq ft floor space

Restaurant, full Service 40 gal/seat

Restaurant, single service articles 20 gal/seat

Restaurant, drive-in 50 gal/car space

Restaurant, carry out only 50 gal/100 sq ft floor space

Institutions, dining halls 5 gal/meal

Deli 40 gal/100 sq ft floor space

Bakery 10 gal/100 sq ft floor space

Meat department, butcher shop or fish market 75 gal/100 sq ft floor space

Specialty food stand or kiosk 50 gal/100 sq ft floor space

Hotels and Motels

Hotels, motels and bed & breakfast facilities,

without in-room cooking facilities 120 gal/room

Hotels and motels, with in-room cooking facilities 175 gal/room

Resort hotels 200 gal/room

Cottages, cabins 200 gal/unit

Self service laundry facilities 500 gal/machine

Medical, dental, veterinary facilities

Medical or dental offices 250 gal/practitioner/shift

Veterinary offices (not including boarding) 250 gal/practitioner/shift

Veterinary hospitals, kennels, animal boarding facilities 20 gal/pen, cage, kennel or stall

Hospitals, medical 300 gal/bed

Hospitals, mental 150 gal/bed

Convalescent, nursing, rest homes without laundry facilities 60 gal/bed

Convalescent, nursing, rest homes with laundry facilities 120 gal/bed

Residential care facilities 60 gal/person

Parks, recreation, camp grounds, R-V parks and other outdoor activity facilities

Campgrounds with comfort station, without

water or sewer hookups 75 gal/campsite

Campgrounds with water and sewer hookups 100 gal/campsite

Campground dump station facility 50 gal/space

Construction, hunting or work camps with flush toilets 60 gal/person

Construction, hunting or work camps with chemical or

portable toilets 40 gal/person

Parks with restroom facilities 250 gal/plumbing fixture

Summer camps without food preparation or laundry facilities 30 gal/person

Summer camps with food preparation and laundry facilities 60 gal/person

Swimming pools, bathhouses and spas 10 gal/person

Public access restrooms 325 gal/plumbing fixture

Schools, preschools and day care

Day care and preschool facilities 25 gal/person (child & employee)

Schools with cafeteria, gym and showers 15 gal/student

Schools with cafeteria 12 gal/student

Schools without cafeteria, gym or showers 10 gal/student

Boarding schools 60 gal/person (student & employee)

Service stations, car wash facilities

Service stations, gas stations 250 gal/plumbing fixture

Car wash facilities ~~(if recycling water see Rule .0235)~~  1200 gal/bay

Sports centers

Bowling center 50 gal/lane

Fitness, exercise, karate or dance center 50 gal/100 sq ft

Tennis, racquet ball 50 gal/court

Gymnasium 50 gal/100 sq ft

Golf course with only minimal food service 250 gal/plumbing fixture

Country clubs 60 gal/member or patron

Mini golf, putt-putt 250 gal/plumbing fixture

Go-kart, motocross 250 gal/plumbing fixture

Batting cages, driving ranges 250 gal/plumbing fixture

Marinas without bathhouse 10 gal/slip

Marinas with bathhouse 30 gal/slip

Video game arcades, pool halls 250 gal/plumbing fixture

Stadiums, auditoriums, theaters, community centers 5 gal/seat

Stores, shopping centers, malls and flea markets

Auto, boat, recreational vehicle dealerships/showrooms

with restrooms 125 gal/plumbing fixture

Convenience stores, with food preparation 60 gal/100 sq ft

Convenience stores, without food preparation 250 gal/plumbing fixture

Flea markets 30 gal/stall

Shopping centers and malls with food service 130 gal/1000 sq ft

Stores and shopping centers without food service 100 gal/1000 sq ft

Transportation terminals – air, bus, train, ferry, port and dock 5 gal/passenger

(d) Design daily flow rates for proposed non-residential developments where the types of use and occupancy are not known shall be designed for a minimum of 880 gallons per acre or the Applicant ~~applicant~~ shall specify an anticipated flow based upon anticipated or potential uses.

~~(e) Conditions applicable to the use of the above design daily flow rates:~~

~~(1) For restaurants, convenience stores, service stations and public access restroom facilities, higher design daily flow rates shall be required based on higher expected usage where use is increased because of its proximity to highways, malls, beaches, or other similar high use areas.~~

~~(2)~~ (e) Residential property on barrier islands and similar communities located south or east of the Atlantic Intracoastal Waterway used as vacation rental as defined in G.S. 42A-4 shall use 120 gallons per day per habitable room. Habitable room shall mean a room or enclosed floor space used or intended to be used for living or sleeping, excluding kitchens and dining areas, bathrooms, shower rooms, water closet compartments, laundries, pantries, foyers, connecting corridors, closets, and storage spaces.

(f) An adjusted daily sewage flow design rate shall be granted for permitted but not yet tributary connections and future connections tributary to the system upon showing that a sewage system is adequate to meet actual daily wastewater flows from a facility included in Paragraph (b) or (c) of this Rule without causing flow violations at the receiving wastewater treatment plant or capacity related sanitary sewer overflows within the collection system as follows:

(1) Documented, representative data from that facility or a comparable facility shall be submitted by an authorized signing official in accordance with Rule .0106 of this Section to the Division as follows for all flow reduction request:

(A) Dates of flow meter calibrations during the time frame evaluated and indication if any adjustments were necessary.

(B) A breakdown of the type of connections (e.g. two bedroom units, three bedroom units) and number of customers for each month of submitted data as applicable. Identification of any non-residential connections including subdivision clubhouses/pools, restaurants, schools, churches and businesses. For each non-residential connection, information as identified in Paragraph (c) of this Rule (e.g. 200 seat church, 40 seat restaurant, 35 person pool bathhouse).

(C) ~~Owner of the collection system.~~ A letter of agreement from the owner or an official, meeting the criteria of Rule .0106 of this Subchapter, of the receiving collection system or treatment works accepting the wastewater and agreeing with the adjusted design rate.

(D) Age of the collection system.

(E) Analysis of inflow and infiltration within the collection system or receiving treatment plant, as applicable.

(F) Where a dedicated wastewater treatment plant serves the specific area and is representative of the residential wastewater usage, at least the 12 most recent consecutive monthly average wastewater flow readings and the daily total wastewater flow readings for the highest average wastewater flow month per customers as reported to the Division.

(G) Where daily data from a wastewater treatment plant cannot be utilized or is not representative of the project area: at least 12 months worth of monthly average wastewater flows from the receiving treatment plant shall be evaluated to determine the peak sewage month. Daily wastewater flows shall then be taken from a flow meter installed at the most downstream point of the collection area for the peak month selected that is representative of the project area. Justification for the selected placement of the flow meter shall also be provided.

(H) An estimated minimum design daily sewage flow rate shall be taken by calculating the numerical average of the top three daily readings for the highest average flow month. The calculations shall also account for seasonal variations, excessive inflow and infiltration, age and suspected meter reading/recording errors.

(2) The Division shall evaluate all data submitted but shall also consider other factors in granting, with or without adjustment, or denying a flow reduction request including: applicable weather conditions during the data period (i.e. rainy or drought), other historical monitoring data for the particular facility or other similar facilities available to the Division, the general accuracy of monitoring reports and flow meter readings, and facility usage (i.e., resort area).

(3) Flow increases shall be required if the calculations in Subparagraph (f)(1) of this Rule yield design flows higher than that specified in Paragraphs (b) or (c) of this Rule.

(4) The Permittee ~~applicant/owner~~ shall retain the letter of any approved adjusted daily design flow rate for the life of the facility and shall transfer such letter to any future Permittee. ~~new system owner.~~

History Note: Authority G.S. 143‑215.1; 143‑215.3(a)(1);

Eff. September 1, 2006.

15A NCAC 02T .0115 is proposed for readoption.

15A NCAC 02T .0115 OPERATIONAL AGREEMENTS

(a) Prior to issuance or reissuance of a permit pursuant to this Subchapter for a wastewater facility or sewer extension as specified in G.S. 143‑215.1(d1), a private Applicant ~~applicant~~ shall provide evidence with the permit application:

(1) To show that the Applicant ~~applicant~~ has been designated as a public utility by the North Carolina Utilities Commission and is authorized to provide service to the specific project area. This may be a Certificate of Public Convenience and Necessity or letter from the Public Staff; or

(2) Enter into and submit an executed Operational Agreement pursuant to G.S. 143‑215.1(d1) with the Division.

(b) Where the Applicant ~~applicant~~ is not a Homeowner's or Property Owner's Association, an executed Operational Agreement must be submitted with the permit application. A copy of the Articles of Incorporation, Declarations and By-laws shall be submitted to the Division with the engineer's certification as required by 15A NCAC 02T .0116 and prior to operation of the permitted facilities.

(c) For permit applications where the Applicant ~~applicant~~ is a legally formed Homeowners' or Property Owner's Association, an executed Operational Agreement and a copy of the Articles of Incorporation, Declarations and By-laws shall be submitted to the Division with the permit application.

(d) An Operational Agreement is required prior to donation to a public utility or municipality unless the Applicant ~~applicant~~ is the respective municipality or public utility. The Operational Agreement shall become void upon transferring the permit to the public utility or municipality via a change of ownership request to the Division and permit issuance into the new owner name.

History Note: Authority G.S. 143‑215.1(d1);

Eff. September 1, 2006.

15A NCAC 02T .0116 is proposed for readoption.

15A NCAC 02T .0116 CERTIFICATION OF COMPLETION

(a) Prior to the operation of any sewer system, treatment works, utilization system, or disposal system for which an individual permit has been issued in accordance with this Subchapter and the application prepared by licensed professional, a certification must be received by the Division from a professional certifying that the sewer system, treatment works, utilization system, or disposal system has been installed in accordance with the rules, any minimum design criteria except as noted, and approved plans and specifications. The professional certification must be on official forms completely filled out, where applicable, and submitted to the Division. For facilities with phased construction or where there is a need to operate certain equipment under actual operating conditions prior to certification, additional certification may be needed as follow‑ups to the initial, pre‑operation certification. The Division may not acknowledge receipt of engineering certifications. The Permittee and the professional shall track the submittal of certifications.

(b) For sewer extensions ~~involving developer donated projects where the developer is the original Permittee,~~ where a transfer of ownership is desired, a change of ownership request shall be submitted to the Division on Division forms upon certifying completion of the project.

(c) All deeds, easements and encroachment agreements necessary for installation and operation and maintenance of the system shall be obtained prior to operation of the system.

(d) The Permittee shall maintain a copy of the individual permit and a set of final record drawings for the life of the facility.

History Note: Authority G.S. 143‑215.1;

Eff. September 1, 2006.

15A NCAC 02T .0117 is proposed for readoption.

15A NCAC 02T .0117 TREATMENT FACILITY OPERATION AND MAINTENANCE

(a) For facilities permitted under this Subchapter, the Permittee ~~permittee~~ must designate an Operator in Responsible Charge and a back‑up operator as required by the Water Pollution Control System Operators Certification Commission as established in 15A NCAC 08F .0200 and 15A NCAC 08G .0200. ~~Copies of this Rule are available from the Division, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27604 at no charge.~~

(b) In order to insure the proper operation and maintenance of facilities permitted under this Section, the Operator in Responsible Charge, or a back‑up operator when appropriate must operate and visit the facility as required by the Water Pollution Control System Operators Certification Commission as established in 15A NCAC 08F .0200 and 15A NCAC 08G .0200. ~~Copies of this Rule are available from the Division, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27604 at no charge.~~

History Note: Authority G.S. 143‑215.3;

Eff. September 1, 2006.

15A NCAC 02T .0118 is proposed for readoption.

15A NCAC 02T .0118 DEMONSTRATION OF FUTURE WASTEWATER TREATMENT CAPACITIES

In order to insure that treatment, utilization, or disposal systems do not exceed their hydraulic treatment capacities, no permits for sewer line extensions shall be issued to wastewater treatment systems owned or operated by municipalities, counties, sanitary districts or public utilities unless they meet the following requirements:

(1) Prior to exceeding 80 percent of the wastewater treatment system's permitted hydraulic capacity (based on the average flow of the last calendar year), the Permittee ~~permittee~~ must submit an approvable engineering evaluation of their future wastewater treatment, utilization, and disposal needs. This evaluation must outline specific plans for meeting future wastewater treatment, utilization, or disposal needs by either expansion of the existing system, elimination or reduction of extraneous flows, or water conservation and must include the source(s) of funding for the improvements. If expansion is not proposed or is proposed for a later date, a detailed justification must be made to the satisfaction of the Director that wastewater treatment needs will be met based on past growth records and future growth projections and, as appropriate, shall include conservation plans or other specific measures to achieve waste flow reductions.

(2) Prior to exceeding 90 percent of the wastewater treatment, utilization, or disposal systems permitted hydraulic capacity, (based on the last calendar year), the Permittee ~~permittee~~ must obtain all permits needed for the expansion of the wastewater treatment, utilization, or disposal system and, if construction is needed, submit approvable final plans and specifications for expansion including a construction schedule. If expansion is not proposed or is proposed for a later date, a detailed justification must be made to the satisfaction of the Director that wastewater treatment needs will be met based on past growth records and future growth projections and, as appropriate, shall include conservation plans or other specific measures to achieve waste flow reductions.

(3) The Director shall allow permits to be issued to facilities that are exceeding the 80 percent or 90 percent loading rates if the additional flow is not projected to result in the facility exceeding its permitted hydraulic capacity, the facility is in compliance with all other permit limitations and requirements, and it is demonstrated to the satisfaction of the Director that adequate progress is being made in developing the needed engineering evaluations or plans and specifications. In determining the adequacy of the progress, the Director shall consider the projected flows, the complexity and scope of the work to be completed and any projected environmental impacts.

History Note: Authority G.S. 143‑215.3;

Eff. September 1, 2006.

15A NCAC 02T .0119 is proposed for readoption.

15A Ncac 02T .0119 reserved for future codification

15A NCAC 02T .0120 is proposed for readoption.

15A NCAC 02T .0120 HISTORICAL CONSIDERATION IN PERMIT APPROVAL

(a) The Division shall consider an Applicant’s ~~applicant’s~~ compliance history in accordance with G.S. 143-215.1(b)(4)b.2. and with the requirements contained within this Rule for environmental permits and certifications issued under Article 21. Paragraph (b) of this Rule is a partial set of criteria for routine consideration under G.S. 143-215.1(b)(4)b.2. The Director may also consider other compliance information in determining compliance history.

(b) When any of the following apply, permits for new and expanding facilities shall not be granted, unless the Division determines that the permit is specifically and solely needed for the construction of facilities to resolve non-compliance with any environmental statute or rule:

(1) The Applicant ~~applicant~~ or any parent, subsidiary, or other affiliate of the Applicant ~~applicant~~ or parent has been convicted of environmental crimes under G.S. 143-215.6B or under Federal law that would otherwise be prosecuted under G.S. 143-215.6B where all appeals have been abandoned or exhausted.

(2) The Applicant ~~applicant~~ or any affiliation has previously abandoned a wastewater treatment facility without properly closing the facility in accordance with the permit or this Subchapter.

(3) The Applicant ~~applicant~~ or any affiliation has not paid a civil penalty where all appeals have been abandoned or exhausted.

(4) The Applicant ~~applicant~~ or any affiliation is currently not compliant with any compliance schedule in a permit, settlement agreement or order.

(5) The Applicant ~~applicant~~ or any affiliation has not paid an annual fee in accordance with Rule .0105(e)(2).

(c) Permits for renewing facilities shall not be granted if the Applicant or any affiliation has not paid an annual fee in accordance with Rule .0105(e)(2).

~~(c)~~(d) Any variance to this Rule shall be approved by the Director and shall be based on the current compliance status of the Permittee’s ~~permittee’s~~ facilities and the magnitude of previous violations. Variance approval shall not be delegated to subordinate staff.

History Note: Authority G.S. 143‑215.1(b); 143‑215.3(a);

Eff. September 1, 2006.