

NCOGC

Third Phase of Rules Review by Rules Committee 2022

NCAC 05H Rules

Analyze URLs, Email Addresses, Mailing Addresses
September 8, 2022

- **Format of presentation:**
 - First, an image of the subject paragraph
 - Second, a link to the URL, email address or mailing address
 - If the link is invalid:
 - Correct it
 - Delete it
 - Explain alternatively
 - Need administrative support from DEQ

who provides, plans, or directs emergency health or safety services.

(40) "Exploration and Production (E & P) waste" means wastes associated with the exploration, development, and production of oil or gas, which are not regulated by the Subtitle C of the Federal Resource Conservation and Recovery Act as set forth in 40 CFR Parts 260-299, which is incorporated by reference, including subsequent amendments and editions, which can be accessed at http://www.ecfr.gov/cgi-bin/text-idx?SID=13be85c0df8971509a2531a778d1c87f&tpl=/ecfrbrowse/Title40/40tab_02.tpl for no charge, and may include the following:

- (A) produced brine, sand, and water;
- (B) drill cuttings;
- (C) water-based drilling fluids;
- (D) flowback fluids;
- (E) stormwater in secondary containment and pits at the well site; and
- (F) any other deposits or residuals from exploration and production activities.

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Rule

Text Image

Works. Takes you to CFR Title 40

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URL

additives that flow from an oil or gas well following well stimulation, or during production of an oil or gas well.

- (44) "Floodplain" is defined in 44 CFR 59.1, which is incorporated by reference, including subsequent amendments and editions, which can be accessed at http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title44/44cfr59_main_02.tpl for free.
- (45) "Floodway" is defined in 44 CFR 59.1, which is incorporated by reference, including subsequent amendments and editions, which can be accessed at http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title44/44cfr59_main_02.tpl for free.
- (46) "Flow rate" means the volume per unit of time of a fluid moving past a fixed point.
- (47) "Formation Integrity Test (FIT)" means a pressure test applied to the formation directly below the base of the casing string to determine the maximum pressure that may be applied without risk of

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http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title44/44cfr59_main_02.tpl

Works. Takes you to CFR Title 44

- (51) "Groundwaters" means those waters occurring in the subsurface under saturated conditions.
- (52) "Hazardous chemicals" is defined in 29 CFR 1910.1200(c), which is incorporated by reference, including subsequent amendments and editions and can be accessed at <http://www.ecfr.gov/cgi-bin/text-idx?rgn=div8&node=29:6.1.1.1.1.1.1.36> for no charge.
- (53) "Health professional" means a licensed physician, physician's assistant, industrial hygienist, toxicologist, epidemiologist, nurse, nurse anesthetist, nurse practitioner, or a local health director.
- (54) "High occupancy building" means any operating public school, nursing facility, hospital, life care

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<http://www.ecfr.gov/cgi-bin/text-idx?rgn=div8&node=29:6.1.1.1.1.1.1.36>

Works, but links to suggestion for updated link.

the production casing.

- (58) "Intermittent stream" is determined by North Carolina Division of Water Quality Methodology for Identification of Intermittent and Perennial Streams and Their Origins, Version 4.11, Effective Date: September 1, 2010, including subsequent amendments and editions, which can be accessed for free at <http://portal.ncdenr.org/web/wq/swp/ws/401/waterresources/streamdeterminations>.
- (59) "Joint" means a length of drill pipe or casing.
- (60) "Kelly bushing" means a device that is fitted to the rotary table through which the kelly passes and

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<http://portal.ncdenr.org/web/wq/swp/ws/401/waterresources/streamdeterminations>

Links to "suggested resource is not available"

(89) "Safety data sheet" means written or printed materials containing all the information specified in 29 CFR 1910.1200(g), which is incorporated by reference including subsequent amendments, which can be accessed at <http://www.ecfr.gov/cgi-bin/text-idx?rgn=div8&node=29:6.1.1.1.1.1.1.36> for no charge, for regulated hazardous substances.

(90) "Service company" means a person contracted by the permittee who conducts work onsite related to the drilling, completion, or production of an oil or gas well.

<http://www.ecfr.gov/cgi-bin/text-idx?rgn=div8&node=29:6.1.1.1.1.1.1.36>

Works, but links to suggestion for updated link.

- (118) "Wetland" is defined in 40 CFR 230.3, which is incorporated by reference, including subsequent amendments and editions, which can be accessed at <http://www.ecfr.gov/cgi-bin/text-idx?SID=7977290449ab243f2865159951305a77&node=40:25.0.1.3.24&rgn=div5> for free.
- (119) "Wiper plug" means a rubber plug used to separate the cement slurry from other fluids.
- (120) "Wireline log" means the recording of information about subsurface geologic formations using tools lowered into the wellbore on a wire line.

<http://www.ecfr.gov/cgi-bin/text-idx?SID=7977290449ab243f2865159951305a77&node=40:25.0.1.3.24&rgn=div5>

Works, but links to suggestion for updated link.

(b) The use of any forms other than those provided by the Department is prohibited. These forms are available on the Division's Oil and Gas Program webpage at the following address: <http://portal.ncdenr.org/web/lr/oilgas>.

(c) All notice and forms required by the rules in this Subchapter to be submitted to the Department shall be made to: Oil & Gas Program, Division of Energy, Mineral, and Land Resources, 1612 Mail Service Center, Raleigh, NC 27699-1612 and a copy in .pdf form submitted to Oil&Gas@ncdenr.gov. The phone number for the Division is 919-707-9220 and the fax number is 919-715-8801.

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<http://portal.ncdenr.org/web/lr/oilgas>

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Email addresses and Mailing Addresses

15A NCAC 05H.0401 PROCEDURE FOR SUBMISSION OF PETITION

(a) All requests for declaratory rulings shall be filed in writing and electronically as follows:

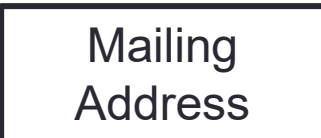
- (1) with the Director by filing one paper copy for each Commissioner plus five additional copies to the following address: Oil and Gas Program, Division of Energy, Mineral, and Land Resources, 1612 Mail Service Center, Raleigh, NC 27699-1612; and
- (2) the electronic submission shall be in .pdf format and sent to the Division at Oil&Gas@ncdenr.gov.

(b) All requests for declaratory rulings shall include the following:

- (1) the name and address of petitioner(s);

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Mailing
Address



Email
Address



Oil&Gas@ncdenr.gov

D) if applicable to the category of information, certification that the chemical for which confidential protection is sought is not regulated under the Federal Safe Drinking Water Act's National Primary Drinking Water Standards or National Secondary Drinking Water Standards found in 40 CFR 141 and 143, which are incorporated by reference, including subsequent amendments and can be accessed for no charge at http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr141_main_02.tpl and http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr143_main_02.tpl, or if regulated, is not present in concentrations greater than the EPA-listed maximum contaminant level for that

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Works. Takes you to CFR Title 40

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr141_main_02.tpl

http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr143_main_02.tpl

Works. Takes you to CFR Title 40, subchapter D Part 143

Reclamation conditions of the approved permit.

(c) The Commission shall use the Reclamation Cost Table to calculate the amount for the disturbed land bond. The Reclamation Cost Table set by the Commission shall include the following:

- (1) stone removal for access road and well pad in cubic yards;
- (2) spreading stockpiles and berms to prepare for fine grading in cubic yards;
- (3) filling of pits in cubic yards;
- (4) fine grading per acre;
- (5) seed and mulch, repair seeding, and fertilizing per acre;
- (6) matting for soil cover per acre;
- (7) matting permanent soil reinforcement per acre;
- (8) drainage ditch excavation; and
- (9) borrow excavation.

(d) The disturbed land bond shall be calculated by multiplying the affected area for each item listed in Paragraph (c) of this Rule and the unit cost for each item as determined by the Commission based on market value of each item. The Reclamation Cost Table is available on the Division's Oil and Gas Program webpage at the following address: <http://portal.ncdenr.org/web/lr/oilgas>.

(e) If the applicant, permittee, or surface owner disagrees with the disturbed land bond amount determined by the Commission, the applicant, permittee, or surface owner may appeal the bond amount pursuant to G.S. 113-421(a3)(1).

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<http://portal.ncdenr.org/web/lr/oilgas>

Works, but doesn't go to oil and gas page

- (2) environmental or natural resources, which may include:
 - (A) existing national or State parks or forests, wilderness areas, the State Nature and Historic Preserve, or public recreation areas;
 - (B) present sections of the natural and scenic rivers system;
 - (C) stream segments that have been classified for scientific or research uses by the Environmental Management Commission at <http://portal.ncdenr.org/web/wq/ps/csu>, or that are proposed to be so classified in a rulemaking proceeding that is pending before the Environmental Management Commission pursuant to G.S.143-214.1 at the time of the designation of the area of environmental concern;
 - (D) existing wildlife refuges, preserves or management areas found at <http://www.fws.gov/refuges/refugelocatormaps/NorthCarolina.html> and game lands identified by the Wildlife Resources Commission found at <http://ncpaws.org/wrcmapbook/>;
 - (E) areas that sustain rare and endangered botanical or animal species; and
 - (F) areas containing unique geological formations, as identified by the State Geologist.

<http://portal.ncdenr.org/web/wq/ps/csu>

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<http://www.fws.gov/refuges/refugelocatormaps/NorthCarolina.html>

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<http://ncpaws.org/wrcmapbook>

Works

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(C) areas where geologic and soil conditions are such that there is a substantial possibility of landslides or seismic activity, as identified by the State Geologist, at <http://portal.ncdenr.org/web/lr/geologic-hazards>.

(4) Outstanding Resource Waters as designated by the Division of Water Resources at <http://nc.maps.arcgis.com/apps/webappviewer/index.html?id=5f5cce7640a1499b83a7b7efaf5524a4> and such contiguous land for the purpose of maintaining the exceptional water quality and outstanding resource values identified in the designation; and

(5) Primary Nursery Areas as designated by the Marine Fisheries Commission at <http://portal.ncdenr.org/web/mf/primary-nursery-areas>.

(d) After the Commission determines that an operation would be sited in an environmentally sensitive area, the Commission may increase the bond amount pursuant to G.S. 113-421(a3)(2). In making the determination, the Commission shall consider factors such as the following:

<http://nc.maps.arcgis.com/apps/webappviewer/index.html?id=5f5cce7640a1499b83a7b7efaf5524a4>

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- (11) the erosion and sedimentation control measures that are designed and constructed to prevent sedimentation to water bodies and adjacent properties from any land disturbing activities related to the construction of the well site in accordance with the SPCA and 15A NCAC 04, and the "North Carolina Erosion and Sediment Control Planning and Design Manual," which is incorporated by reference, including subsequent amendments and editions. The North Carolina Erosion and Sediment Control Planning and Design Manual may be viewed online for no charge at <http://portal.ncdenr.org/web/lr/publications>;
- (12) the stormwater management control measures shall be designed and constructed in accordance with 15A NCAC 02H and the "North Carolina Division of Water Quality Stormwater Best Management Practices Manual," which is incorporated by reference, including subsequent amendments and editions. The Stormwater Best Management Practices Manual may be viewed online for no charge at <http://portal.ncdenr.org/web/lr/bmp-manual>;

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<http://portal.ncdenr.org/web/lr/bmp-manual>

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(c) Well site disturbed areas shall be minimized. Taking into consideration the geologic target, setbacks, and safety, the well site shall be located in accordance with API Recommended Practice 51R "Environmental Protection for Onshore Oil and Gas Production Operations and Leases," and the United States Department of the Interior, Bureau of Land Management (BLM) "Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development, the Gold Book," which are incorporated by reference, including subsequent amendments and editions. Recommended Practice 51R, published by API, may be viewed online for no charge at <http://publications.api.org/>. The Gold Book may be viewed online for no charge at http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/best_management_practices/gold_book.html.

(d) Well sites shall be designed and located pursuant to the SPCA and in accordance with the North Carolina Erosion and Sediment Control Planning and Design Manual.

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http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/best_management_practices/gold_book.html

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- (4) all components of the containment system that could potentially come into direct contact with any substances shall be compatible with those substances and be resistant to physical, chemical, and other failure during handling, installation and use pursuant to American Society for Testing and Materials (ASTM) D5747/D5747M-08 (2013) e1 "Standard Practice for Tests to Evaluate the Chemical Resistance of Geomembranes to Liquids," which is incorporated by reference, including subsequent amendments and editions. This document, published by ASTM International, 100 Barr Harbor Drive, PO Box C700, West Conshohocken, PA 19428, may be purchased at a cost of forty-three dollars (\$43.00) at <http://www.astm.org/Standards/D5747.htm>.
- (5) the permittee shall inspect all containment systems to ensure that integrity is maintained. Containment systems shall be maintained in such manner to prevent an impact to public health, welfare, and the environment. Containment system inspection and maintenance records shall be available at the well site for review by the Department.
- (6) the permittee shall notify the Department if a spill or release occurs at the well site and take

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<http://www.astm.org/Standards/D5747.htm>

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15A NCAC 05H.1503 ACCESS ROAD CONSTRUCTION STANDARDS

(a) Prior to construction of the access road, the permittee shall post an identification sign pursuant to Rule .1615 of this Subchapter.

(b) Access roads shall be located, designed, and constructed to minimize environmental impact and meet the requirements of the SPCA, 15A NCAC 04, "North Carolina Erosion and Sediment Control Planning and Design Manual," 15A NCAC 02H, "North Carolina Division of Water Quality Stormwater Best Management Practices Manual," and the North Carolina Department of Transportation "Standard Specifications for Roads and Structures." The Standard Specifications for Roads and Structures, published by the Department of Transportation, may be viewed online for no charge at http://www.ncdot.org/doh/preconstruct/ps/specifications/specifications_provisions.html.

- (1) access roads shall be constructed and maintained to a minimum width of 20 feet and to allow emergency response vehicles to enter the well site at all times;
- (2) public roads shall be kept clear of mud and debris from the well site; and
- (3) turnarounds or pull-off areas shall be installed for single-lane access roads exceeding 150 feet in length.

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http://www.ncdot.org/doh/preconstruct/ps/specifications/specifications_provisions.html

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15A NCAC 05H.1604 PROHIBITED SUBSTANCES

(a) The Commission incorporates by reference, including subsequent amendments and editions, the "Permitting Guidance for Oil and Gas Hydraulic Fracturing Activities Using Diesel Fuels – Draft: Underground Injection Control Program Guidance #84," published by the United States Environmental Protection Agency. Copies of this document may be obtained online for no charge at:

<http://water.epa.gov/type/groundwater/uic/class2/hydraulicfracturing/upload/epa816r14001.pdf>.

(b) Any substance identified by one or more of the following Chemical Abstract Service Registry Numbers listed in the United States Environmental Protection Agency's "Permitting Guidance for Oil and Gas Hydraulic Fracturing Activities Using Diesel Fuels" shall not be used in the subsurface:

- (1) 68334-30-5, Primary Name: Fuels, diesel;
- (2) 68476-34-6, Primary Name: Fuels, diesel, Number 2;
- (3) 68476-30-2, Primary Name: Fuel oil Number 2;
- (4) 68476-31-3, Primary Name: Fuel oil, Number 4; and

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<http://water.epa.gov/type/groundwater/uic/class2/hydraulicfracturing/upload/epa816r14001.pdf>

Works.

comply with API Recommended Practice 5A3 "Recommended Practice on Thread Compounds for

Casing, Tubing, Line Pipe, and Drill Stem Elements," and API Recommended Practice 5C5 "Recommended Practice on Procedures for Testing Casing and Tubing Connections," which are incorporated by reference, including subsequent amendments and editions. These documents may be viewed online for no charge at <http://publications.api.org/>.

(b) The permittee shall verify casing integrity by pressure testing each cemented casing string greater than 200 feet in length in accordance with the following test method:

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<http://publications.api.org/>

Works.

15A NCAC 05H.1606 CEMENTING STANDARDS

(a) All cement pumped into the wellbore shall consist of cement that is manufactured and tested pursuant to API Specification 10A "Specification for Cements and Materials for Well Cementing" or the American Society for Testing and Materials (ASTM) Standard Specification "C150/C150M Standard Specification for Portland Cement," which are incorporated by reference, including subsequent amendments and editions. Specification 10A, published by API, may be viewed online for no charge at <http://publications.api.org/>. Specification C150/C150M, published by ASTM, may be purchased at a cost of forty-one dollars (\$41.00) at <http://www.astm.org/Standards/C150.htm> or by mail at 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959.

(b) The permittee, or an authorized representative of the permittee, shall be onsite for all cement mixing and

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Address is correct

<http://www.astm.org/Standards/C150.htm>

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15A NCAC 05H.1701 CHEMICAL DISCLOSURE REQUIREMENTS

The rules of this Section set forth the requirements of chemical disclosures for permittees, service companies, and vendors involved in oil or gas exploration and production. This Section delineates information to be posted to the Chemical Disclosure Registry at <http://fracfocus.org/>. These Rules also specify the conditions under which confidential information protections apply and the conditions under which that information may be disclosed to health professionals or emergency responders.

*History Note: Authority G.S. 113-391(a)(5)h; 113-391.1;
Eff. March 17, 2015.*

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<http://fracfocus.org/>

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(b) Water supply testing required by G.S. 113-423(f), and in accordance with this Rule, shall be conducted pursuant to the U.S. Environmental Protection Agency (EPA) Region IV Science and Ecosystem Support Division (SESD) "Operating Procedure for Groundwater Sampling," document number SESDPROC-301-R3, "Operating Procedure for Surface Water Sampling," document number SESDPROC-201-R3, and the U.S. Geological Survey (USGS) "National Field Manual for the Collection of Water-Quality Data," Book 9, Handbooks for Water-Resources Investigations, which are incorporated by reference, including subsequent amendments and editions. These

documents may be obtained online at no charge at <http://www.epa.gov/region4/sesd/fbqstp/Groundwater-Sampling.pdf>,

<http://www.epa.gov/region4/sesd/fbqstp/Surfacewater-Sampling.pdf>, and <http://water.usgs.gov/owq/FieldManual/>.

(c) If a permittee drills an oil or gas well but does not install production casing and abandons the oil or gas well in accordance with the plugging and abandonment requirements outlined in Rule .1618 of this Subchapter, subsequent testing pursuant to Subparagraph (a)(3) of this Rule is not required.

(d) The Department may require additional testing if the current data collected shows an increase in concentration

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<http://www.epa.gov/region4/sesd/fbqstp/Groundwater-Sampling.pdf>

Doesn't link to the article

<http://www.epa.gov/region4/sesd/fbqstp/Surfacewater-Sampling.pdf>

Doesn't link to the article

<http://water.usgs.gov/owq/FieldManual/>

Works

(b) The applicant or permittee shall use a drought indicator well within the measureable area of influence identified by the Division of Water Resources and the United States Geological Survey found at <http://www.ncwater.org/?page=345>, to be used to monitor the impacts to groundwater and to determine appropriate thresholds on which to base the cessation of groundwater pumping. If there is no such well, the applicant or permittee shall, in consultation with and the approval of the Department, identify a well for this purpose.

(c) When the drought indicator well closest to the groundwater source(s) included in this application is designated as D3, indicating that water levels are at or below the fifth percentile of historic water level measurements as determined by the Drought Management Advisory Council and reported by the Division of Water Resources at <http://www.ncwater.org/?page=345>, the withdrawals from these sources shall cease until the designation is upgraded to D1 or above, indicating water levels above the 10th percentile of historic water level measurements.

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<http://www.ncwater.org/>

Works

- (G) the anticipated date of construction or installation of all waste management infrastructure;
- (2) construction, installation, operation, and maintenance specifications and details for all pits, tanks, secondary containment, and other ancillary equipment, such as piping, pumps, and valve systems. This shall include site design and capacity of all pits and tanks installed or constructed onsite;
 - (3) an emergency response plan that complies with 40 CFR 112, which is incorporated by reference, including subsequent amendments and editions, which can be accessed at http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr112_main_02.tpl for no charge, and Rule .1305 of this Subchapter;
 - (4) a statement of whether and how E & P wastes produced onsite will be reused at the permitted oil

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http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr112_main_02.tpl

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(e) Any sludge or residual resulting from the reuse process authorized pursuant to Subparagraph (c)(1) of this Rule or from any onsite pretreatment that may be used in conjunction with Subparagraphs (c)(2) and (c)(3) of this Rule shall be managed and disposed of pursuant to Subparagraphs (c)(3) and (c)(4) of this Rule or with the Resource Conservation and Recovery Act and regulations promulgated pursuant thereto, 42 USC 6901 et seq. and 40 CFR Parts 239-282, which is incorporated by reference, including subsequent amendments, which can be accessed for no charge at http://www.ecfr.gov/cgi-bin/text-idx?SID=13be85c0df8971509a2531a778d1c87f&tpl=/ecfrbrowse/Title40/40tab_02.tpl. In addition, prior to disposal of any sludge or residual resulting from the reuse process authorized pursuant to Subparagraph (c)(1) of this Rule, or from any onsite pretreatment that may be used in conjunction with Subparagraphs (c)(2) and (c)(3) of this Rule, the permittee shall demonstrate that the sludge or residual meets all applicable radioactivity standards for the disposal

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(f) Residuals from onsite pretreatment shall be disposed of in accordance with G.S. 143-215.1 and G.S. 130A-294, or transported to another state and disposed of in accordance with the receiving state's rules.

(g) Solid E & P waste, including drill cuttings and solidified muds, shall be characterized in accordance with EPA Method 1311, Toxicity Characteristic Leaching Procedure, which is incorporated by reference, including subsequent amendments and found at <http://www.epa.gov/epawaste/hazard/testmethods/sw846/pdfs/1311.pdf>. The solid E & P waste shall be characterized on a frequency and schedule determined by the Department, based on the permittee's drilling, completion, and stimulation practices. In addition, the Director, in consultation with the Director of the Division of Waste Management, may require additional analysis as necessary for the protection of public health, welfare, and the environment.

(h) Solid E & P waste shall be disposed of by transfer to the appropriate permitted solid waste management facility in accordance with 15A NCAC 13A or 15A NCAC 13B, which are incorporated by reference including subsequent amendments

<http://www.epa.gov/epawaste/hazard/testmethods/sw846/pdfs/1311.pdf>

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Discussion

- If the link is invalid:
 - Correct it
 - Delete it
 - Explain alternatively
 - Need administrative support from DEQ