

Burgos, Alexander N

Subject: FW: [External] RE: Several EMC Readoptions for RRC

From: Young, Elizabeth <esyoung@NCDOJ.GOV>

Sent: Monday, December 15, 2025 3:04 PM

To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Everett, Jennifer <jennifer.everett@deq.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Montie, Jessica <jessica.montie@deq.nc.gov>; Higgins, Karen <karen.higgins@deq.nc.gov>

Subject: RE: [External] RE: Several EMC Readoptions for RRC

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Thanks Seth. I will be at the RRC meeting on Thursday if the Commission has any questions on our requested deadline for readoption of the 02L, 02N, 02O, and 02P rules.

Elly



Elly S. Young (she/her)
Special Deputy Attorney General
Environmental Division
Commissions, Coastal and Administrative Section
Phone: (919) 716-6944
Email: esyoung@ncdoj.gov
114 W. Edenton St., Raleigh, NC 27603
ncdoj.gov

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From: Ascher, Seth M <seth.ascher@oah.nc.gov>

Sent: Monday, December 15, 2025 2:51 PM

To: Young, Elizabeth <esyoung@NCDOJ.GOV>; Everett, Jennifer <jennifer.everett@deq.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Montie, Jessica <jessica.montie@deq.nc.gov>; Higgins, Karen <karen.higgins@deq.nc.gov>

Subject: Re: [External] RE: Several EMC Readoptions for RRC

EXTERNAL SENDER: This email originated from outside the organization. Do not click on links or open attachments unless you can validate the sender and the contents are safe.

Elly and Jennifer,

Based on my discussion with Elly, attached is the staff opinion I plan to present at Thursday's meeting. Let me know if you have any questions.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

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Burgos, Alexander N

Subject: FW: [External] RE: Several EMC Readoptions for RRC

From: Young, Elizabeth <esyoun@NCDOJ.GOV>

Sent: Thursday, December 11, 2025 2:17 PM

To: Everett, Jennifer <jennifer.everett@deq.nc.gov>; Ascher, Seth M <seth.ascher@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Montie, Jessica <jessica.montie@deq.nc.gov>; Higgins, Karen <karen.higgins@deq.nc.gov>

Subject: [External] RE: Several EMC Readoptions for RRC

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Seth,

The EMC chair is concerned about pushing deadlines back on the rule readoption schedule. We are hoping to revise the 11 rules in Subchapter 02I at the same time as the 3 rules in Subchapter 02A, as both subchapters concern EMC operating procedures. (I recognize that Subchapter 02A is only in front of the RRC for the Designation Report in December, but once the 60 days pass and the report is final, we want to make sure the 02I and 02A rules are reviewed together.) Some of the rules in those subchapters have not been updated in over 30 years, and we are hoping to revise all 14 rules sooner rather than later, so would suggest we maintain the November 2027 deadline for both Subchapters 02I and 02A, if not even making the deadline earlier. Again, due to the significant amount of time that has passed since the rules were revised, having a deadline as early as July 2027 would be preferable to any delay.

For the 02L, 02N, 02O, and 02P rules, we would prefer to continue to have the final deadline set as September 1, 2028, as proposed.

I appreciate your and the RRC's consideration of both EMC requests.

Best,
Elly



Elly S. Young (she/her)
Special Deputy Attorney General
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114 W. Edenton St., Raleigh, NC 27603
ncdoj.gov

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Burgos, Alexander N

Subject: FW: Several EMC Readoptions for RRC

From: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Sent: Wednesday, December 10, 2025 11:34 AM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Montie, Jessica <jessica.montie@deq.nc.gov>; Higgins, Karen <karen.higgins@deq.nc.gov>; Young, Elizabeth S <esyoung@ncdoj.gov>
Subject: RE: Several EMC Readoptions for RRC

Hi Seth,

Thanks for responding about these. See my responses in red below.

Jennifer Everett
DEQ Rulemaking Coordinator
N.C. Depart. Of Environmental Quality
Office of General Counsel
1601 Mail Service Center
Raleigh, NC 27699-1601
Tele: (919)-707-8595
<https://www.deq.nc.gov/accessdeq/rules-regulations>

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From: Ascher, Seth M <seth.ascher@oah.nc.gov>
Sent: Tuesday, December 9, 2025 5:16 PM
To: Everett, Jennifer <jennifer.everett@deq.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Montie, Jessica <jessica.montie@deq.nc.gov>; Higgins, Karen <karen.higgins@deq.nc.gov>
Subject: Re: Several EMC Readoptions for RRC

Jennifer,

I have received these and am happy to try and get them on the December agenda. For context, I had not yet sent out the consultation emails for the last batch of rules because of other time-sensitive priorities for the RRC. The timeline for starting the consultation process (by an email from a staff attorney) is flexible under the statute and rule, but once I start that process the other deadlines come into play. So in effect, the delay in following up with the consultation email gives the agency extra time. That said, we can treat this as the email requesting consultation pursuant to 26 NCAC 05 .0212.

In regards to your proposed deadlines:

15 NCAC 02G: I can recommend setting the readoption deadline for these seven rules as December 1, 2028.

Awesome.

15A NCAC 02I: Given what we already have scheduled for November 2027, I would propose that we set the readoption deadline for these eleven rules for December 1, 2027. Do you have any concerns with that? Nope, that works.

15A NCAC 02L, 02N, 02O, and 02P: These sections have 137 rules. Given what we've already scheduled, the size of this package, and your proposed timeline, I'd like to push this back to 2029. Would August 1, 2029 would work for you? I think so. The EMC had approved a schedule that sectioned these 137 rules out into groups, with interim readoption dates, as identified in the filed readoption schedule. The first group identified, Group A (34 rules) will likely stay on the scheduled track, however. My understanding is that agencies can bring rules sooner than the readoption date.

Please let us know if you have any questions or if something has changed.
Thank you!

Seth Ascher

Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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Subject: FW: Several EMC Readoptions for RRC

From: Ascher, Seth M <seth.ascher@oah.nc.gov>

Sent: Tuesday, December 9, 2025 5:16 PM

To: Everett, Jennifer <jennifer.everett@deq.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>; Wiggs, Travis C <travis.wiggs@oah.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Montie, Jessica <jessica.montie@deq.nc.gov>; Higgins, Karen <karen.higgins@deq.nc.gov>

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15A NCAC 02L, 02N, 02O, and 02P: These sections have 137 rules. Given what we've already scheduled, the size of this package, and your proposed timeline, I'd like to push this back to 2029. Would August 1, 2029 would work for you?

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

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Burgos, Alexander N

From: Everett, Jennifer
Sent: Tuesday, December 9, 2025 10:39 AM
To: Rules, Oah; Wiggs, Travis C; Ascher, Seth M
Cc: Burgos, Alexander N; Montie, Jessica; Higgins, Karen
Subject: FW: Several EMC Readoptions for RRC
Attachments: 15A NCAC 02G_Readopt Schedule.pdf; 15A NCAC 02I_Readopt Schedule.pdf; 15A NCAC 02L, N, O, P_Readopt schedule.pdf

Hi –
Just checking that this was received back in November? It's not on the Dec RRC agenda yet.
Thanks.

Jennifer Everett
DEQ Rulemaking Coordinator
N.C. Depart. Of Environmental Quality
Office of General Counsel
1601 Mail Service Center
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<https://www.deq.nc.gov/accessdeq/rules-regulations>

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From: Everett, Jennifer
Sent: Thursday, November 20, 2025 4:14 PM
To: Rules, Oah <oah.rules@oah.nc.gov>
Subject: Several EMC Readoptions for RRC

Hello,

Pursuant to 26 NCAC 05 .0212, the Environmental Management Commission at its November 13, 2025 meeting approved proposed readoption dates for several Subchapters. They are grouped by the following:

- 15A NCAC 02G
- 15A NCAC 02I
- 15A NCAC 02L, N, O, P

The 3 corresponding attachments provide the timelines and readoptions dates.

Thanks!

Jennifer Everett
DEQ Rulemaking Coordinator
N.C. Depart. Of Environmental Quality

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<https://www.deq.nc.gov/accessdeq/rules-regulations>

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**Proposed readoption date from the Environmental Management Commission for
15A NCAC 02I pursuant to 26 NCAC 05 .0212**

- Staff to complete drafting rule amendments: January – April 2026
- Steering Committee approval of draft rule amendments: July 2026
- Regulatory Impact Analysis (RIA) development and OSBM approval: July – September 2026
- EMC to approve the RIA and draft rules to proceed to public comment: November 2026
- Comment Period Begins: December 2026
- End of public comment period: February 2027
- Staff to develop Hearing Officer's Report: March – May 2027
- EMC's adopts readoptions & RIA: November 2027 (regular scheduled meeting)

Proposed Rule Readoption Schedule and Deadline

15A NCAC 02L, 02N, 02O, and 02P

The Environmental Management Commission (EMC) submits the following information for 15A NCAC 02L, 15A NCAC 02N, 15A NCAC 02O, and 15A NCAC 02P for the Rules Review Commission's consideration in setting the readoption deadline for these four subchapters.

Rulemaking Priorities and Rationale

Collectively, these four subchapters have 137 rules categorized as necessary and requiring readoption. The readoptions will be completed in three groups. A description of each group, along with the rationale, is provided below.

Group A: 34 rules in Subchapter 02L, Sections .0100 - .0300

These 34 rules in Subchapter 02L covering groundwater quality standards and classifications are administered by the Division of Water Resources (DWR). DWR proposes to keep their Division's 02L rules in one rulemaking package and separate from the Division of Waste Management's (DWM) rules. This is more efficient for staff, the commission, and the regulated community. A portion of these rules are also a part of North Carolina's Triennial Review of Groundwater Quality Standards.

Group B: 73 rules in Subchapters 02N, 02O, and 02P

These rules covering Underground Storage Tank (UST) Criteria and Standards, UST Financial Responsibility Requirements, and the Commercial Leaking Petroleum UST Cleanup Fund are administered by DWM's UST Section. DWM UST Section staff are interested in completing this readoption quickly while still allowing sufficient time for stakeholder engagement, because this readoption will be quickly followed by the readoption of Subchapter 02L, Sections .0400 and .0500.

Group C: 30 rules in Subchapter 02L, Sections .0400 - .0500

These 30 rules in Subchapter 02L covering Risk-Based Assessment and Corrective Action for Petroleum USTs and Petroleum Releases from Above-Ground Storage Tanks (ASTs) and Sources are administered by DWM's UST Section. DWM proposes to keep their Division's 02L rules in one rulemaking package and separate from DWR's rules. This is more efficient for staff, the commission, and the regulated community without overwhelming anyone with too many rules at once. The same staff that will be working on the readoption of these rules are also working on the readoption of 15A NCAC 02T Section .1500 through 2026 and early 2027.

Planned Timeline for Readoption

The EMC's planned timeline for readoption, including all steps required by G.S. 150B-21.2, will be accomplished by completing the rulemaking in three groups as detailed above, with a final adoption deadline for all rules in 15A NCAC 02L, 15A NCAC 02N, 15A NCAC 02O, and 15A NCAC 02P by September 1, 2028.

Proposed Rule Readoption Schedule and Deadline
15A NCAC 02L, 02N, 02O, and 02P

Group	Division	Subchapter / Citation	# of Rules	Previous Readoption Effective Date	Stakeholder Discussions and Rule Drafting	Fiscal Note Drafting & Approval	Committee Approve to EMC	EMC Approve to Notice	Rule Published In Register	Public Hearing	End of Comment Period	Develop Hearing Officer's Report	EMC Adoption
Group A	DWR	02L .0100 - .0300	34	Jun 2022 & Nov. 2025	Nov 2025 – Apr 2026	May – Jul 2026	Sep 2026	Nov 2026	Dec 2026	Jan 2027	Feb 2027	Mar – Aug 2027	Sep 2027
Group B	DWM UST	02N, 02O, and 02P	73	Jan 2021*	Jan – Jun 2026	Jul – Nov 2026	Jan 2027	Mar 2027	Apr 2027	May 2027	Jun 2027	Jul – Dec 2027	Jan 2028
Group C	DWM UST	02L .0400 & .0500	30	June 2019	Jan – Dec 2026	Jan – Jun 2027	Jul 2027	Sep 2027	Oct 2027	Nov 2027	Dec 2027	Jan – Jun 2028	Jul 2028

NOTES:
 (*) The most recent rule effective date might be for something other than readoption. For example, some rules were amended after readoption was completed.

Proposed Rule Readoption Deadline: September 1, 2028

The Environmental Management Commission (EMC) submits the following information for 15A NCAC 02G for the Rules Review Commission's consideration in setting the readoption deadline for this subchapter.

The EMC proposes that the readoption deadline, including all steps required by G.S. 150B-21.2, be accomplished by completing the rulemaking as detailed below, with a final adoption deadline for all rules in 15A NCAC 02G by **December 1, 2028**.

For ease of reference, a table listing the proposed group and readoption deadline is included after the narrative rulemaking priorities and rationale below.

Rulemaking Priorities and Rationale

This subchapter has seven rules categorized as necessary and requiring readoption. The readoption will be completed along with the O2E - Water Use Registration and Allocation rules which has similar stakeholders who have discussed these rules in the past. The O2E rules comprises of Registration of Water Withdrawals and Transfers, Regulation of Surface Water Transfers, Central Coastal Plain Capacity Use Area, Water Use During Droughts and Water Supply Emergencies. A description of the group, along with the rationale, is provided below.

Seven rules in Subchapter 02G

Proposed Readoption: December 1, 2028

These rules covering the water storage allocation of Jordan Lake water supply are implemented by the Division of Water Resources (DWR). The Jordan Lake water supply storage is vitally important to the Triangle Region, the economic engine of North Carolina. It is important to have the objective, fact-based process for allocating that storage as provided by this rule.

Rulemaking Group	# of Rules	Section / Rules	Schedule Approved by EMC	Schedule Approved by EMC	Stakeholder Input	Rule Drafting	Fiscal Note Drafting & Approval	Committee Approve to EMC	EMC Approve to Notice	Rule Published In Register	Public Hearing(s)	End of Comment Period	Develop Hearing Officer's Report	EMC Adoption
DWR	7	02G .0500	Nov 2025	Nov 2025	Dec 2026 - Jan 2027	Feb 2027 - Apr 2027	May - Jul 2027	Sep 2027	Nov 2027	Dec 2027	Jan 2028	Feb 2028	Mar- Aug 2028	Dec 1, 2028