

1 15A NCAC 02L .0401 is readopted with changes as published in 33:12 NCR 1323 as follows:

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3 **15A NCAC 02L .0401 PURPOSE-AND-SCOPE**

4 (a) The purpose of this Section is to establish procedures for risk-based assessment and corrective action sufficient
5 to:

- 6 (1) protect human health and the environment;
- 7 (2) abate and control contamination of the waters of the State as deemed necessary to protect human
8 health and the environment;
- 9 (3) permit management of the State's groundwaters to protect their designated current usage and
10 potential future uses;
- 11 (4) provide for anticipated future uses of the State's groundwater;
- 12 (5) recognize the diversity of contaminants, the State's geology and the characteristics of each individual
13 site; and
- 14 (6) accomplish these goals in a cost-efficient manner to assure the best use of the limited resources
15 available to address groundwater pollution within the State.

16 (b) ~~The applicable portions of Section .0100 not specifically excluded apply to this Section of this Subchapter shall~~
17 apply to this Section unless specifically excluded.

18

19 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
 20 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648,s. 1;*
 21 *Recodified from 15A NCAC 02L .0115(a);*
 22 *Amended Eff. December 1, 2005-2005;*
 23 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0402 is readopted as published in 33:12 NCR 1323 as follows:

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3 **15A NCAC 02L .0402 DEFINITIONS**

4 The definitions as set out in ~~15A NCAC 02L~~ Rule .0102 of this Subchapter shall apply to this Section.

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6 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*

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215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;

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Eff. December 1, ~~2005~~ 2005;

9

Readopted Eff. June 1, 2019.

1 15A NCAC 02L .0403 is readopted with changes as published in 33:12 NCR 1323 as follows:

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3 **15A NCAC 02L .0403 RULE APPLICATION**

4 This Section ~~applies~~ shall apply to any discharge or release from a "commercial underground storage tank" or a
5 "noncommercial underground storage tank," as those terms are defined in G.S. 143-215.94A, ~~which that~~ is reported on
6 or after ~~the effective date of this Section, January 2, 1998.~~ This Section shall apply to any discharge or release from a
7 "commercial underground storage tank" or a "noncommercial underground storage tank," as those terms are defined
8 in G.S. 143-215.94A ~~which is reported before the effective date of this Section as provided in 15A NCAC 02L .0416~~
9 ~~of this Section.~~—The requirements of this Section shall apply to the owner and operator of the underground storage
10 tank from which the discharge or release occurred, a landowner seeking reimbursement from the Commercial Leaking
11 Underground Storage Tank Fund or the Noncommercial Leaking Underground Storage Tank Fund under G.S. 143-
12 215.94E, and any other person responsible for the assessment or cleanup of a discharge or release from an underground
13 storage tank, including any person who has conducted or controlled an activity ~~which that~~ results in the discharge or
14 release of petroleum or petroleum products as defined in G.S. 143-215.94A(10) to the groundwaters of the ~~State, State~~
15 or in proximity thereto; these persons shall be collectively referred to for purposes of this Section as the "responsible
16 party." This Section shall be applied in a manner consistent with the rules found in 15A NCAC ~~2N02N~~ in order to
17 assure that the State's requirements regarding assessment and cleanup from underground storage tanks are no less
18 stringent than Federal requirements.

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20 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
21 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*
22 *Recodified from 15A NCAC 02L .0115(b);*
23 *Amended Eff. December 1, 2005-2005;*
24 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0404 is readopted with changes as published in 33:12 NCR 1323 as follows:

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3 **15A NCAC 02L .0404 REQUIRED INITIAL ABATEMENT ACTIONS BY RESPONSIBLE PARTY**

4 (a) A responsible party [for] Upon a discharge or release of petroleum from a commercial underground storage tank
5 the responsible party shall:

- 6 (1) take ~~immediate~~ action to prevent ~~anyall~~ further discharge or release of petroleum from the
7 underground storage tank; identify and mitigate ~~anyall~~ fire, ~~explosion or explosion, and~~ vapor
8 ~~hazard; hazards;~~ remove any free product; and comply with the requirements of ~~Rules~~ 15A NCAC
9 ~~02N .0601 through .0604 and .0604, .0701 through .0703, .0703, and .0705 of Subchapter 02N;~~ within
10 24 hours of discovery;
11 (2) incorporate the requirements of 15A NCAC 02N .0704 into the submittal required under
12 ~~Item~~ Subparagraph (3) of this Paragraph or the limited site assessment report required under ~~15A~~
13 ~~NCAC 02L~~ Rule .0405 of this Section, whichever is applicable. ~~Such~~ The submittals shall constitute
14 compliance with the reporting requirements of 15A NCAC 02N .0704(b); and
15 (3) submit within 90 days of the discovery of the discharge or release a soil contamination report
16 containing information sufficient to show that remaining unsaturated soil in the side walls and at the
17 base of the excavation does not contain contaminant levels ~~which~~ that exceed either the "soil-to-
18 groundwater" or the residential maximum soil contaminant concentrations established by the
19 Department pursuant to ~~15A NCAC 02L~~ Rule .0411 of this Section, whichever is lower. If ~~such~~ the
20 showing is made, the discharge or release shall be classified as low risk by the
21 ~~Department;~~ Department as defined in Rules .0406 and .0407 of this Section.

22 (b) [A responsible party for] Upon a discharge or release of petroleum from a noncommercial underground storage
23 tank the responsible party shall:

- 24 (1) take necessary actions to protect public health, safety, and welfare and the environment, including
25 actions to prevent all further discharge or release of petroleum from the noncommercial underground
26 storage tank; [to-] identify and mitigate all fire, explosion, and vapor hazards; and [to-] report the
27 release within 24 hours of discovery, in compliance with G.S. 143-215.83(a), G.S. 143-215.84(a),
28 G.S. 143-215.85(b), and G.S. 143-215.94E; and
29 (2) provide or otherwise make available any information required by the Department to determine the
30 site risk as described in Rules .0405, .0406, and .0407 of this Section.

31 (c) The Department shall notify the responsible party for a discharge or release of petroleum from a noncommercial
32 underground storage tank that no cleanup, no further cleanup, or no further action shall be required without [requiring
33 additional soil remediation pursuant to Rule .0408 of this Section if the site is determined by the Department to be
34 low risk. This classification [shall be] is based on information provided to the Department that:

- 35 (1) describes the source and type of the petroleum release, site-specific risk factors, and risk factors
36 present in the surrounding area as defined in Rules .0406 and .0407 of this Section;

1 (2) demonstrates that no remaining risk factors are present that are likely to be affected per G.S. 143-
2 215.94V(b); or

3 (3) documents that soils remaining onsite do not contain contaminant levels that exceed either the "soil-
4 to-groundwater" or the residential maximum soil contaminant concentrations established by the
5 Department pursuant to Rule .0411 of this Section, whichever is lower.

6 The Department shall reclassify the site as high risk, as defined in Rule .0406(1) of this Section, upon receipt of new
7 information related to site conditions indicating that the discharge or release from a noncommercial underground
8 storage tank poses an unacceptable risk or a potentially unacceptable risk to human health or the environment, as
9 described in Rule .0407 of this Section.

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11 *History Note:* *Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
12 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*
13 *Recodified from 15A NCAC 02L .0115(c)(1)-(3);*
14 *Amended Eff. December 1, 2005-2005;*
15 *Temporary Amendment Eff. September 29, 2017;*
16 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0405 is readopted with changes as published in 33:12 NCR 1323 as follows:

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3 **15A NCAC 02L .0405 REQUIREMENTS FOR LIMITED SITE ASSESSMENT**

4 (a) If the required showing for a commercial underground storage tank cannot be made or if the Department
5 determines that a release from a noncommercial underground storage tank represents an unacceptable risk under 15A
6 NCAC 02L Rule .0404 of this Section, the responsible party shall submit within 120 days of the discovery of the
7 discharge or release, ~~or within such other greater time limit approved by the Department,~~ a report containing
8 information needed by the Department to classify the level of risk to human health and the environment posed by a
9 discharge or release under 15A NCAC 02L Rule .0406 of this Section.

10 (b) The responsible party may submit a written request for an extension to the 120 day deadline set forth in Paragraph
11 (a) of this Rule to the Department for the Department's consideration prior to the deadline. The request for deadline
12 extension by the responsible party shall demonstrate that the extension, if granted by the Department, would not
13 increase the risk posed by the release. When considering a request from a responsible party for additional time to
14 submit the report, the Department shall consider the following: ~~the extent to which the request for additional time is~~
15 due to factors outside of the control of the responsible party, the previous history of the person submitting the report
16 in complying with deadlines established under the Commission's rules, the technical complications associated with
17 assessing the extent of contamination at the site or identifying potential receptors, and the necessity for action to
18 eliminate an imminent threat to public health or the environment.

19 (1) the extent to which the request for additional time is due to factors outside of the control of the
20 responsible party;

21 (2) the previous history of the person submitting the report in complying with deadlines established
22 under the Commission's rules;

23 (3) the technical complications associated with assessing the extent of contamination at the site or
24 identifying potential receptors; and

25 (4) the necessity for action to eliminate an imminent threat to public health or the environment.

26 (c) ~~Such~~The report shall include, at a minimum, include:

27 (1) a location map, based on a USGS topographic map, showing the radius of 1500 feet from the source
28 area of a confirmed release or discharge and depicting all water supply ~~wells and wells,~~ surface
29 ~~waters~~waters, and designated wellhead protection areas as defined in 42 U.S.C. 300h-7(e) within
30 the 1500-foot radius. 42 U.S.C. 300h-7(e), is incorporated by reference including subsequent
31 amendments and editions. Copies may be obtained at no cost from the U.S. Government Bookstore's
32 website at <http://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/html/USCODE-2010-title42->
33 chap6A-subchapXII-partC-sec300h-7.htm. The material is available for inspection at the
34 Department of Environmental Quality, UST Section, 217 West Jones Street, Raleigh, NC 27603.
35 For purposes of this Section, source"source area"area" means the point of release or discharge from
36 the underground storage tank system;

- 1 (2) a determination of whether the source area of the discharge or release is within a designated wellhead
2 protection area as defined in 42 U.S.C. 300h-7(e);
- 3 (3) if the discharge or release is in the Coastal Plain physiographic region as designated on a map
4 entitled "Geology of North Carolina" published by the Department in 1985, incorporated by
5 reference including subsequent amendments or editions and may be obtained electronically free of
6 charge from the Department's website at [https://deq.nc.gov/about/divisions/energy-mineral-land-
8 resources/north-carolina-geological-survey/ncegs-maps/1985-geologic-map-of-nc](https://deq.nc.gov/about/divisions/energy-mineral-land-
7 resources/north-carolina-geological-survey/ncegs-maps/1985-geologic-map-of-nc), a determination
9 of whether the source area of the discharge or release is located in an area in which there is recharge
10 to an unconfined or semi-confined deeper aquifer ~~which~~ that is being used or may be used as a source
11 of drinking water;
- 12 (4) a determination of whether vapors from the discharge or release pose a threat of explosion due to
13 the accumulation of vapors in a confined space or pose any other serious threat to public health,
14 public ~~safety~~ safety, or the environment;
- 15 (5) scaled site ~~map(s)~~ maps showing the location of the following ~~which~~ that are on or adjacent to the
16 property where the source is located: ~~site boundaries, roads, buildings, basements, floor and storm~~
17 ~~drains, subsurface utilities, septic tanks and leach fields, underground storage tank systems,~~
18 ~~monitoring wells, borings and the sampling points;~~
- 19 (A) site boundaries;
20 (B) roads;
21 (C) buildings;
22 (D) basements;
23 (E) floor and storm drains;
24 (F) subsurface utilities;
25 (G) septic tanks and leach fields;
26 (H) underground and aboveground storage tank systems;
27 (I) monitoring wells;
28 (J) water supply wells;
29 (K) surface water bodies and other drainage features;
30 (L) borings; and
31 (M) the sampling points;
- 32 (6) the results from a limited site assessment ~~which~~ that shall include:
33 (A) the analytical results from soil samples collected during the construction of a monitoring
34 well installed in the source area of each confirmed discharge or release from a
35 noncommercial or commercial underground storage tank and either the analytical results
36 of a groundwater sample collected from the well or, if free product is present in the well,
37 the amount of free product in the well. The soil samples shall be collected every five feet
in the unsaturated zone unless a water table is encountered at or greater than a depth of 25

1 feet from land surface in which case soil samples shall be collected every 10 feet in the
2 unsaturated zone. The soil samples shall be collected from suspected worst-case locations
3 exhibiting visible contamination or elevated levels of volatile organic compounds in the
4 borehole;

5 ~~(b)~~(B) if any constituent in the groundwater sample from the source area monitoring well installed
6 in accordance with Sub-item ~~(a)~~(A) of this Item, for a site meeting the high risk
7 classification in ~~15A NCAC 02L .0406(1)~~, Rule .0406(1) of this Section, exceeds the
8 standards or interim standards established in ~~15A NCAC 02L Rule .0202 of this Subchapter~~
9 by a factor of 10 and is a discharge or release from a commercial underground storage tank,
10 the analytical results from a groundwater sample collected from each of three additional
11 monitoring wells or, if free product is present in any of the wells, the amount of free product
12 in such well. The three additional monitoring wells shall be installed as follows: ~~as best as~~
13 ~~can be determined~~, one upgradient of the source of contamination and two downgradient
14 of the source of contamination. The monitoring wells installed upgradient and
15 downgradient of the source of contamination ~~must~~shall be located such that groundwater
16 flow direction can be determined; and

17 ~~(c)~~(C) potentiometric data from all required wells;

- 18 (7) the availability of public water supplies and the identification of properties served by the public
19 water supplies within 1500 feet of the source area of a confirmed discharge or release;
- 20 (8) the land use, including zoning if applicable, within 1500 feet of the source area of a confirmed
21 discharge or release;
- 22 (9) a discussion of ~~site specific~~site-specific conditions or possible actions ~~which~~that could result in
23 lowering the risk classification assigned to the release. ~~Such~~The discussion shall be based on
24 information known or required to be obtained under this Paragraph; and
- 25 (10) names and current addresses of all owners and operators of the underground storage tank systems
26 for which a discharge or release is confirmed, the ~~owner~~(s)owners of the land upon which such
27 systems are located, and all potentially affected real property owners. ~~When considering a request~~
28 ~~from a responsible party for additional time to submit the report, the Division shall consider the~~
29 ~~extent to which the request for additional time is due to factors outside of the control of the~~
30 ~~responsible party, the previous history of the person submitting the report in complying with~~
31 ~~deadlines established under the Commission's rules, the technical complications associated with~~
32 ~~assessing the extent of contamination at the site or identifying potential receptors, and the necessity~~
33 ~~for immediate action to eliminate an imminent threat to public health or the environment.~~

34
35 *History Note:* Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-
36 215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;
37 Recodified from 15A NCAC 02L .0115(c)(4);

- 1 *Amended Eff. December 1, ~~2005-2005~~;*
- 2 *Temporary Amendment Eff. September 29, 2017;*
- 3 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0406 is readopted with changes as published in 33:12 NCR 1323 as follows:

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3 **15A NCAC 02L .0406 DISCHARGE OR RELEASE CLASSIFICATIONS**

4 The Department shall classify the risk of each known discharge or release as high, ~~intermediate~~ intermediate, or low
5 risk unless the discharge or release has been classified under ~~15A NCAC 02L .0404(3)~~ Rule .0404(a)(3) or (c) of this
6 Section. For purposes of this Section:

7 (1) "High risk" means that:

8 (a) a water supply well, including one used for non-drinking purposes, has been contaminated
9 by ~~the~~ a release or discharge;

10 (b) a water supply well used for drinking water is located within 1000 feet of the source area
11 of a confirmed discharge or ~~release;~~ release from a commercial underground storage tank
12 or a noncommercial underground storage tank [storing motor fuel as defined by G.S. 143-
13 215.94A(2)a., (7);] of 1100 gallons or less in capacity used for storing motor fuel for
14 noncommercial purposes;

15 (c) a water supply well not used for drinking water is located within 250 feet of the source area
16 of a confirmed discharge or ~~release;~~ release from a commercial underground storage tank
17 or a noncommercial underground storage tank [storing motor fuel as defined by G.S. 143-
18 215.94A(2)a., (7);] of 1100 gallons or less in capacity used for storing motor fuel for
19 noncommercial purposes;

20 (d) the groundwater within 500 feet of the source area of a confirmed discharge or release from
21 a commercial underground storage tank or a noncommercial underground storage tank
22 [storing motor fuel as defined by G.S. 143 215.94A(2)a., (7)] of 1100 gallons or less in
23 capacity used for storing motor fuel for noncommercial purposes has the potential for
24 future use in that there is no source of water supply other than the groundwater;

25 (e) a water supply well, including one used for non-drinking purposes, is located within 150
26 feet of the source area of a confirmed discharge or release from a noncommercial
27 underground storage tank storing heating oil for consumptive use on the premises;

28 (f) ~~the~~ the vapors from ~~the~~ a discharge or release pose a serious threat of explosion due to
29 accumulation of the vapors in a confined space; or

30 (g) ~~the~~ the discharge or release poses an imminent danger to public health, public safety, or the
31 environment.

32 (2) "Intermediate risk" means that:

33 (a) surface water is located within 500 feet of the source area of a confirmed discharge or
34 release from a commercial underground storage tank and the maximum groundwater
35 contaminant concentration exceeds the applicable surface water quality standards and
36 criteria found in 15A NCAC 02B .0200 by a factor of 10;

- 1 (b) in the Coastal Plain physiographic region as designated on a map entitled "Geology of
 2 North Carolina" published by the Department in 1985, the source area of a confirmed
 3 discharge or release from a commercial underground storage tank is located in an area in
 4 which there is recharge to an unconfined or semi-confined deeper aquifer ~~which~~that the
 5 Department determines is being used or may be used as a source of drinking water;
- 6 (c) the source area of a confirmed discharge or release from a commercial underground storage
 7 tank is within a designated wellhead protection area, as defined in 42 U.S.C. 300h-7(e);
- 8 (d) the levels of groundwater contamination associated with a confirmed discharge or release
 9 from a commercial underground storage tank for any contaminant except ethylene
 10 dibromide, ~~benzene~~benzene, and alkane and aromatic carbon fraction classes exceed 50
 11 percent of the solubility of the contaminant at 25 degrees Celsius or 1,000 times the
 12 groundwater standard or interim standard established in ~~15A NCAC 02L .0202~~, Rule .0202
 13 of this Subchapter, whichever is lower; or
- 14 (e) the levels of groundwater contamination associated with a confirmed discharge or release
 15 from a commercial underground storage tank for ethylene dibromide and benzene exceed
 16 1,000 times the federal drinking water standard set out in 40 CFR 141. 40 CFR 141 is
 17 incorporated by reference including subsequent amendments and editions. Copies may be
 18 obtained at no cost from the U.S. Government Bookstore's website at
 19
 21 [part141.pdf](https://www.gpo.gov/fdsys/pkg/CFR-2015-title40-vol23/pdf/CFR-2015-title40-vol23-part141.pdf). The material is available for inspection at the Department of Environmental
 22 Quality, UST Section, 217 West Jones Street, Raleigh, NC 27603.

22 (3) "Low risk" means that:

- 23 (a) the risk posed does not fall within the ~~high or intermediate risk categories~~; high risk
 24 category for any underground storage tank, or within the intermediate risk category for a
 25 commercial underground storage tank; or
- 26 (b) based on review of site-specific information, limited ~~assessment~~assessment, or interim
 27 corrective actions, ~~the Department determines that~~ the discharge or release poses no
 28 significant risk to human health or the environment.

29 If the criteria for more than one risk category applies, the discharge or release shall be classified at the highest risk
 30 level identified in ~~15A NCAC 02L~~ Rule .0407 of this Section.

31
 32 *History Note:* Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-
 33 215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;
 34 Recodified from 15A NCAC 02L .0115(d);
 35 Amended Eff. December 1, 2005-2005;
 36 Temporary Amendment Eff. September 29, 2017;
 37 Readopted Eff. June 1, 2019.

1 15A NCAC 02L .0407 is readopted with changes as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0407 RECLASSIFICATION OF RISK LEVELS**

4 (a) ~~[It shall be a continuing obligation that each]~~Each responsible party shall ~~have the continuing obligation to~~ notify
5 the Department of any changes that may affect the level of risk assigned to a discharge or release by the Department
6 if the change is known or should be known by the responsible party, including changes in zoning of real property, use
7 of real property, or the use of groundwater that has been contaminated or is expected to be contaminated by the
8 discharge or release. ~~The Department may [shall] reclassify the risk posed by a release if warranted by further~~
9 ~~information concerning the potential exposure of receptors to the discharge or release or upon receipt of new~~
10 ~~information concerning changed conditions at the site. After initial classification of the discharge or release, the~~
11 ~~Department may require limited assessment, interim corrective action, or other actions which [that] the Department~~
12 ~~believes will result in a lower risk classification. It shall be a continuing obligation of each responsible party to notify~~
13 the Department of any changes that might affect the level of risk assigned to a discharge or release by the Department
14 if the change is known or should be known by the responsible party. Such changes shall include, but shall not be
15 limited to, changes in zoning of real property, use of real property or the use of groundwater that has been contaminated
16 or is expected to be contaminated by the discharge or release, if such change could cause the Department to reclassify
17 the risk.

18 (b) ~~The Department shall reclassify the risk posed by a release if warranted by further information concerning the~~
19 ~~potential exposure of receptors to the discharge or release or upon receipt of new information concerning changed~~
20 ~~conditions at the site. After initial classification of the discharge or release, the Department may require limited~~
21 ~~assessment, interim corrective action, or other actions that the Department believes will result in a lower risk~~
22 ~~classification.~~

23 (b)(c) If the risk posed by a discharge or release is determined by the Department to be high risk, the responsible party
24 shall comply with the assessment and cleanup requirements of Rule .0106(c), ~~(g)(g)~~, and (h) of this Subchapter and
25 15A NCAC 02N .0706 and .0707. The goal of ~~any~~ required corrective action for groundwater contamination shall be
26 restoration to the level of the groundwater standards set forth in ~~15A NCAC 02L .0202, Rule .0202 of this Subchapter,~~
27 or as closely thereto as is economically and technologically feasible. In ~~any~~ corrective action plan submitted pursuant
28 to this Paragraph, natural attenuation shall be used to the maximum extent ~~possible~~. ~~possible~~, when the benefits of its
29 use ~~[shall]do~~ not increase the risk to the environment and human health. If the responsible party demonstrates that
30 natural attenuation prevents the further migration of the plume, the Department may approve a groundwater
31 monitoring plan.

32 (e)(d) If the risk posed by a discharge or release is determined by the Department to be an intermediate risk, the
33 responsible party shall comply with the assessment requirements of ~~15A NCAC 02L Rule~~ .0106(c) and (g) of this
34 ~~Subchapter~~ and 15A NCAC 02N .0706. As part of the comprehensive site assessment, the responsible party shall
35 evaluate, based on ~~site specific~~ site-specific conditions, whether the release poses a significant risk to human health or
36 the environment. If the Department determines, based on the site-specific conditions, that the discharge or release
37 does not pose a significant threat to human health or the environment, the site shall be reclassified as a low risk site.

1 If the site is not reclassified, the responsible party shall, at the direction of the Department, submit a groundwater
2 monitoring plan or a corrective action plan, or a combination thereof, meeting the cleanup standards of this Paragraph
3 and containing the information required in ~~15A NCAC 02L Rule .0106(h) of this Subchapter~~ and 15A NCAC 02N
4 .0707. Discharges or releases ~~which~~ that are classified as intermediate risk shall be remediated, at a minimum, to a
5 cleanup level of 50 percent of the solubility of the contaminant at 25 degrees Celsius or 1,000 times the groundwater
6 standard or interim standard established in ~~15A NCAC 02L .0202, Rule .0202 of this Subchapter,~~ whichever is
7 ~~lower~~ lower, for any groundwater contaminant except ethylene dibromide, benzene and alkane and aromatic carbon
8 fraction classes. Ethylene dibromide and benzene shall be remediated to a cleanup level of 1,000 times the federal
9 drinking water standard ~~set out in 40 CFR 141 as referenced in 15A NCAC 18C .1518 incorporated by reference~~
10 ~~including subsequent amendments and editions, and available free of charge at <http://reports.oah.state.nc.us/ncac/title>~~
11 ~~15a - environmental quality/chapter 18 - environmental health/subchapter c/15a ncac 18c .1518.pdf.~~ Additionally, if
12 a corrective action plan or groundwater monitoring plan is required under this Paragraph, the responsible party shall
13 demonstrate that the groundwater cleanup levels are sufficient to prevent a violation of:

- 14 (1) the rules contained in 15A NCAC 02B;
- 15 (2) the standards contained in ~~15A NCAC 02L Rule .0202 of this Subchapter~~ in a deep aquifer as
16 described in ~~15A NCAC 02L Rule .0406(2)(b) of this Section;~~ and
- 17 (3) the standards contained in ~~15A NCAC 02L Rule .0202 of this Subchapter~~ at a location no closer than
18 one year time of travel upgradient of a well within a designated wellhead protection area, based on
19 travel time and the natural attenuation capacity of the subsurface materials or on a physical barrier
20 to groundwater migration that exists or will be installed by the person making the request.

21 In any corrective action plan submitted pursuant to this Paragraph, natural attenuation shall be used to the maximum
22 extent ~~possible,~~ possible, if the benefits of its use ~~will~~ do not increase the risk to the environment and human health.

23 ~~(d)(e)~~ (e) If the risk posed by a discharge or release is determined by the Department to be a low risk, the Department
24 shall notify the responsible party that no cleanup, no further ~~cleanup~~ cleanup, or no further action ~~will be~~ is required by
25 the Department unless the Department later determines that the discharge or release poses an unacceptable risk or a
26 potentially unacceptable risk to human health or the environment. No notification ~~will~~ shall be issued pursuant to this
27 Paragraph, however, until the responsible party ~~has completed soil remediation pursuant to 15A NCAC 02L .0408 of~~
28 ~~this Section except as provided in 15A NCAC 02L .0416 of this Section or as closely thereto as economically or~~
29 ~~technologically feasible,~~ has:

- 30 (1) ~~completed soil remediation pursuant to Rule .0408 of this Section or as closely thereto as~~
31 ~~economically or technologically feasible;~~
- 32 (2) ~~submitted proof of public notification, if [required;] required pursuant to Rule .0409(b) of this~~
33 ~~Section; and~~
- 34 (3) ~~recorded all required land-use [restrictions;] restrictions pursuant to G.S. 143B-279.9 and 143B-~~
35 ~~279.11.~~

36 The issuance by the Department of a notification under this Paragraph shall not affect any private right of action by
37 any party which may be affected by the contamination.

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History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648,s. 1; Recodified from 15A NCAC 02L .0115(e)-(h); Amended Eff. December 1, ~~2005~~.2005; Readopted Eff. June 1, 2019.

1 15A NCAC 02L .0408 is readopted with changes as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0408 ASSESSMENT AND REMEDIATION PROCEDURES**

4 Assessment and remediation of soil contamination shall be addressed as follows:

- 5 (1) At the time that the Department determines the risk posed by the discharge or release, the
6 Department shall also determine, based on site-specific information, whether the site is "residential"
7 or "industrial/commercial." For the purposes of this Section, a site is presumed residential, but may
8 be classified as industrial/commercial if the Department determines based on site-specific
9 information that exposure to the soil contamination is limited in time due to the use of the site and
10 does not involve exposure to children. For the purposes of this Paragraph, "site" means both the
11 property upon which the discharge or release ~~has~~ occurred and any property upon which soil has
12 been affected by the discharge or release.
- 13 (2) ~~The~~ For a discharge or release from a commercial underground storage tank, or for a discharge or
14 release from a noncommercial underground storage tank classified by the Department as high risk,
15 the responsible party shall submit a report to the Department assessing the vertical and horizontal
16 extent of soil ~~contamination~~ contamination in excess of the lower of:
17 (a) the residential or industrial/commercial maximum soil contaminant concentration,
18 whichever is applicable, that has been established by the Department pursuant to Rule
19 .0411 of this Section; or
20 (b) the "soil-to-groundwater" maximum soil contaminant concentration that has been
21 established by the Department pursuant to Rule .0411 of this Section.
- 22 (3) For a discharge or release from a commercial underground storage tank classified by the Department
23 as low risk, the responsible party shall submit a report demonstrating that soil contamination has
24 been remediated to either the residential or industrial/commercial maximum soil contaminant
25 concentration established by the Department pursuant to ~~15A NCAC 02L~~ Rule .0411 of this Section,
26 whichever is applicable.
- 27 (4) For a discharge or release classified by the Department as high or intermediate risk, the responsible
28 party shall submit a report demonstrating that soil contamination has been remediated to the lower
29 of:
30 (a) the residential or industrial/commercial maximum soil contaminant concentration,
31 whichever is applicable, that has been established by the Department pursuant to ~~15A~~
32 ~~NCAC 02L~~ Rule .0411 of this Section; or
33 (b) the "soil-to-groundwater" maximum soil contaminant concentration that has been
34 established by the Department pursuant to ~~15A NCAC 02L~~ Rule .0411 of this Section.

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36 *History Note:* Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-
37 215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;

1 *Recodified from 15A NCAC 02L .0115(i);*
2 *Amended Eff. December 1, ~~2005-2005~~;*
3 *Temporary Amendment Eff. September 29, 2017;*
4 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0409 is readopted with changes as published in 33:12 NCR 1323 as follows:

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3 **15A NCAC 02L .0409 NOTIFICATION REQUIREMENTS**

4 (a) A responsible party who submits a corrective action plan ~~which that~~ proposes natural ~~attenuation or attenuation~~, to
5 cleanup groundwater contamination to a standard other than a standard ~~or interim standard established as set forth~~ in
6 ~~15A NCAC 02L .0202, Rule .0202 of this Subchapter~~, or to cleanup soil other than to the standard for residential use
7 or soil-to-groundwater contaminant concentration established pursuant to this Section, whichever is lowest, shall give
8 notice to: ~~the local Health Director and the chief administrative officer of each political jurisdiction in which the~~
9 ~~contamination occurs; all property owners and occupants within or contiguous to the area containing the~~
10 ~~contamination; and all property owners and occupants within or contiguous to the area where the contamination is~~
11 ~~expected to migrate.~~

- 12 (1) the local Health Director and the chief administrative officer of each political jurisdiction in which
13 the contamination occurs;
14 (2) all property owners and occupants within or contiguous to the area containing the contamination;
15 and
16 (3) all property owners and occupants within or contiguous to the area where the contamination is
17 expected to migrate.

18 ~~Such~~The notice shall describe the nature of the plan and the reasons supporting it. Notification shall be made by
19 certified mail concurrent with the submittal of the corrective action plan. Approval of the corrective action plan by
20 the Department shall be postponed for a period of ~~30~~60 days following receipt of the request so that the Department
21 may receive and consider ~~comments submitted~~ comments. The responsible party shall, within ~~a time frame~~
22 ~~determined by the Department to be sufficient, 30 days~~, provide the Department with a copy of the notice and proof of
23 receipt of each required ~~notice~~ notice or of refusal by the addressee to accept delivery of a required notice. If notice
24 by certified mail to occupants under this Paragraph is impractical, the responsible party ~~may~~shall give notice ~~by~~
25 ~~posting such notice prominently in a manner designed to give actual notice to the occupants as provided in G.S. 1A-~~
26 1, Rule 4(j) or 4(j1). If notice is made to occupants by posting, the responsible party shall provide the Department
27 with a copy of the posted notice and a description of the manner in which such posted notice was given.

28 (b) A responsible party who receives a notice from the Department pursuant to ~~15A NCAC 02L Rule .0404(c) or~~
29 .0407(d), .0407(c) of this Section for a discharge or release ~~which that~~ has not been remediated to the groundwater
30 standards or interim standards established in Rule .0202 of this Subchapter or to the lower of the residential or soil-
31 to-groundwater contaminant concentrations established under ~~15A NCAC 02L Rule .0411~~ of this Section, shall, within
32 30 days of the receipt of such notice, provide a copy of the notice to: ~~the local Health Director and the chief~~
33 ~~administrative officer of each political jurisdiction in which the contamination occurs; all property owners and~~
34 ~~occupants within or contiguous to the area containing contamination; and all property owners and occupants within~~
35 ~~or contiguous to the area where the contamination is expected to migrate.~~

- 36 (1) the local Health Director and the chief administrative officer of each political jurisdiction in which
37 the contamination occurs;

- 1 (2) all property owners and occupants within or contiguous to the area containing the contamination;
2 and
3 (3) all property owners and occupants within or contiguous to the area where the contamination is
4 expected to migrate.

5 Notification shall be made by certified mail. The responsible party shall, within ~~a time frame determined by the~~
6 ~~Department,~~ 60 days of receipt of the original notice from the Department, provide the Department with proof of
7 receipt of the copy of the ~~notice,~~ notice or of refusal by the addressee to accept delivery of the copy of the notice. If
8 notice by certified mail to occupants under this Paragraph is impractical, the responsible party ~~may~~ shall give notice
9 ~~by posting such notice prominently in a manner designed to give actual notice to the occupants as provided in G.S.~~
10 1A-1, Rule 4(j) or 4(j1). If notice is made to occupants by posting, the responsible party shall provide the Department
11 with a description of the manner in which ~~such~~ the posted notice was given.

12
13 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
14 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*
15 *Recodified from 15A NCAC 02L .0115(j) and (k);*
16 *Amended Eff. December 1, 2005-2005;*
17 *Temporary Amendment Eff. September 29, 2017;*
18 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0410 is readopted with changes as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0410 DEPARTMENTAL LISTING OF DISCHARGES OR RELEASES**

4 ~~To the extent feasible, the~~The Department shall maintain in each of the Department's regional offices a list of all
5 petroleum underground storage tank discharges or releases discovered and reported to the Department within the
6 region on or after the effective date of this Section and all petroleum underground storage tank discharges or releases
7 for which notification was issued under ~~15A NCAC 02L Rule .0407(d).~~0407(e) of this Section by the Department on
8 or after the effective date of this Section.

9

10 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
11 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648,s. 1;*

12 *Recodified from 15A NCAC 02L .0115(l);*

13 *Amended Eff. December 1, ~~2005~~.2005;*

14 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0411 is readopted with changes as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0411 ESTABLISHING MAXIMUM SOIL CONTAMINATION CONCENTRATIONS**

4 The Department shall ~~publish,~~publish on the Department website and annually ~~revise,~~revise maximum soil
5 contaminant concentrations to be used as soil cleanup levels for contamination from petroleum underground storage
6 tank systems. The Department shall establish maximum soil contaminant concentrations for residential,
7 ~~industrial/commercial~~industrial/commercial, and soil-to-groundwater exposures as follows:

8 (1) The following equations and references shall be used in establishing residential maximum soil
9 contaminant concentrations. Equation 1 shall be used for each contaminant with an EPA
10 carcinogenic classification of A, B1, B2, C, D or E. Equation 2 shall be used for each contaminant
11 with an EPA carcinogenic classification of A, B1, B2 or C. The maximum soil contaminant
12 concentration shall be the lower of the concentrations derived from Equations 1 and 2.

13 (a) Equation 1: Non-cancer Risk-based Residential Ingestion Concentration

14 Soil mg/kg = $[0.2 \times \text{oral chronic reference dose} \times \text{body weight, age 1 to 6} \times \text{averaging time}$
15 $\text{noncarcinogens}] / [\text{exposure frequency} \times \text{exposure duration, age 1 to 6} \times (\text{soil ingestion}$
16 $\text{rate, age 1 to 6} / 10^6 \text{ mg/kg})]$.

17 (b) Equation 2: Cancer Risk-based Residential Ingestion Concentration

18 Soil mg/kg = $[\text{target cancer risk of } 10^{-6} \times \text{averaging time carcinogens}] / [\text{exposure frequency}$
19 $\times (\text{soil ingestion factor, age adjusted} / 10^6 \text{ mg/kg}) \times \text{oral cancer slope factor}]$. The age
20 adjusted soil ingestion factor shall be calculated by: $[(\text{exposure duration, age 1 to 6} \times \text{soil}$
21 $\text{ingestion rate, age 1 to 6}) / (\text{body weight, age 1 to 6})] + [(\text{exposure duration, total -}$
22 $\text{exposure duration, age 1 to 6}) \times \text{soil ingestion, adult}] / (\text{body weight, adult})]$.

23 (c) The exposure factors selected in calculating the residential maximum soil contaminant
24 concentrations shall be within the recommended ranges specified in the following
25 references or the most recent version of these references:

26 (i) EPA, ~~1990,~~2011. Exposure Factors ~~Handbook;~~Handbook, incorporated by
27 reference including subsequent amendments or editions and may be obtained
28 electronically free of charge from the United States Environmental Protection
29 Agency website at
30 [https://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=236252;](https://cfpub.epa.gov/ncea/risk/recordisplay.cfm?deid=236252)

31 (ii) EPA, 1991. Risk Assessment Guidance for Superfund: Volume I Human Health
32 Evaluation Manual (Part B, Development of Risk Based Preliminary Remediation
33 ~~Goals;~~Goals), incorporated by reference including subsequent amendments or
34 editions and may be obtained electronically free of charge from the United States
35 Environmental Protection Agency website at [https://www.epa.gov/risk/risk-](https://www.epa.gov/risk/risk-assessment-guidance-superfund-rags-part-b)
36 [assessment-guidance-superfund-rags-part-b;](https://www.epa.gov/risk/risk-assessment-guidance-superfund-rags-part-b)

- 1 (iii) ~~EPA Region III. Risk based Concentration Tables (RBC Tables). Office of~~
2 ~~RCRA, Technical and Program Support Branch. Available at:~~
3 ~~<http://www.epa.gov/reg3hwmd/index.html>;~~ EPA. Regional Screening Level
4 Generic Tables (RSL) and User’s Guide, incorporated by reference including
5 subsequent amendments or editions and may be obtained electronically free of
6 charge from the United States Environmental Protection Agency website at
7 <https://www.epa.gov/risk/regional-screening-levels-rsls>; and
- 8 (iv) ~~EPA, 1995. Supplemental Guidance to RAGS: Region 4 Bulletins Human Health~~
9 ~~Risk Assessment, 2018. Region 4 Human Health Risk Assessment Supplemental~~
10 ~~Guidance, incorporated by reference including future amendments, subsequent~~
11 ~~amendments or editions and may be obtained electronically free of charge from~~
12 ~~the United States Environmental Protection Agency website at~~
13 ~~[https://www.epa.gov/sites/production/files/2018-](https://www.epa.gov/sites/production/files/2018-03/documents/hhra_regional_supplemental_guidance_report-march-2018_update.pdf)~~
14 ~~[03/documents/hhra_regional_supplemental_guidance_report-march-](https://www.epa.gov/sites/production/files/2018-03/documents/hhra_regional_supplemental_guidance_report-march-2018_update.pdf)~~
15 ~~[2018_update.pdf](https://www.epa.gov/sites/production/files/2018-03/documents/hhra_regional_supplemental_guidance_report-march-2018_update.pdf).~~
- 16 (d) The following references or the most recent version of these references, in order of
17 preference, shall be used to obtain oral chronic reference doses and oral cancer slope
18 factors:
- 19 (i) ~~EPA. Integrated Risk Information System (IRIS) Computer Database; Database,~~
20 ~~incorporated by reference including subsequent amendments or editions and may~~
21 ~~be obtained electronically free of charge from the United States Environmental~~
22 ~~Protection Agency website at <https://www.epa.gov/iris>;~~
- 23 (ii) ~~EPA. Health Effects Assessment Summary Tables (HEAST); (HEAST),~~
24 ~~incorporated by reference including subsequent amendments or editions and may~~
25 ~~be obtained electronically free of charge from the United States Environmental~~
26 ~~Protection Agency website at <https://epa-heat.ornl.gov>;~~
- 27 (iii) ~~EPA Region III. Risk based Concentration Tables (RBC Tables). Office of~~
28 ~~RCRA, Technical and Program Support Branch. Available at:~~
29 ~~<http://www.epa.gov/reg3hwmd/index.html>;~~ EPA. Regional Screening Level
30 Generic Tables (RSL) and User’s Guide;
- 31 (iv) ~~EPA, 1995. Supplemental Guidance to RAGS: Region 4 Bulletins Human Health~~
32 ~~Risk Assessment, including future amendments; 2018. Region 4 Human Health~~
33 ~~Risk Assessment Supplemental Guidance; and~~
- 34 (v) ~~Other appropriate, scientifically valid peer-reviewed~~ published health risk
35 assessment data, and scientifically valid peer-reviewed published toxicological
36 data.

- 1 (2) The following equations and references shall be used in establishing industrial/commercial
2 maximum soil contaminant concentrations. Equation 1 shall be used for each contaminant with an
3 EPA carcinogenic classification of A, B1, B2, C, D or E. Equation 2 shall be used for each
4 contaminant with an EPA carcinogenic classification of A, B1, B2 or C. The maximum soil
5 contaminant concentration shall be the lower of the concentrations derived from Equations 1 and 2.
- 6 (a) Equation 1: Non-cancer Risk-based Industrial/Commercial Ingestion Concentration
7 Soil mg/kg = $[0.2 \times \text{oral chronic reference dose} \times \text{body weight, adult} \times \text{averaging time}$
8 $\text{noncarcinogens}] / [\text{exposure frequency} \times \text{exposure duration, adult} \times (\text{soil ingestion rate,}$
9 $\text{adult} / 10^6 \text{ mg/kg}) \times \text{fraction of contaminated soil ingested}]$.
- 10 (b) Equation 2: Cancer Risk-based Industrial/Commercial Ingestion Concentration
11 Soil mg/kg = $[\text{target cancer risk of } 10^{-6} \times \text{body weight, adult} \times \text{averaging time carcinogens}]$
12 $/ [\text{exposure frequency} \times \text{exposure duration, adult} \times (\text{soil ingestion rate, adult} / 10^6 \text{ mg/kg})$
13 $\times \text{fraction of contaminated soil ingested} \times \text{oral cancer slope factor}]$.
- 14 (c) The exposure factors selected in calculating the industrial/commercial maximum soil
15 contaminant concentrations shall be within the recommended ranges specified in the
16 following references or the most recent version of these references:
- 17 (i) EPA, ~~1990-2011~~. Exposure Factors Handbook;
- 18 (ii) EPA, 1991. Risk Assessment Guidance for Superfund: Volume I Human Health
19 Evaluation Manual (Part B, Development of Risk Based Preliminary Remediation
20 Goals);
- 21 (iii) ~~EPA Region III. Risk based Concentration Tables (RBC Tables). Office of~~
22 ~~RCRA, Technical and Program Support Branch. Available at:~~
23 ~~<http://www.epa.gov/reg3hwmd/index.html>; EPA. Regional Screening Level~~
24 ~~Generic Tables (RSL) and User's Guide; and~~
- 25 (iv) EPA, ~~1995. Supplemental Guidance to RAGS: Region 4 Bulletins Human Health~~
26 ~~Risk Assessment, including future amendments-2018. Region 4 Human Health~~
27 ~~Risk Assessment Supplemental Guidance.~~
- 28 (d) The following references or the most recent version of these references, in order of
29 preference, shall be used to obtain oral chronic reference doses and oral cancer slope
30 factors:
- 31 (i) EPA. Integrated Risk Information System (IRIS) Computer Database;
- 32 (ii) EPA. Health Effects Assessment Summary Tables (HEAST);
- 33 (iii) ~~EPA Region III. Risk based Concentration Tables (RBC Tables). Office of~~
34 ~~RCRA, Technical and Program Support Branch. Available at:~~
35 ~~<http://www.epa.gov/reg3hwmd/index.html>; EPA. Regional Screening Level~~
36 ~~Generic Tables (RSL) and User's Guide;~~

- 1 (iv) EPA, 1995. ~~Supplemental Guidance to RAGS: Region 4 Bulletins Human Health~~
 2 ~~Risk Assessment, including future amendments;~~2018. Region 4 Human Health
 3 Risk Assessment Supplemental Guidance; and
 4 (v) Other ~~appropriate,~~scientifically valid peer-reviewed published health risk
 5 assessment data, and scientifically valid peer-reviewed published toxicological
 6 data.
- 7 (3) The following equations and references shall be used in establishing the soil-to-groundwater
 8 maximum contaminant concentrations:
- 9 (a) Organic Constituents:
 10 $\text{Soil mg/kg} = \text{groundwater standard or interim standard} \times [(.02 \times \text{soil organic carbon-water}$
 11 $\text{partition coefficient}) + 4 + (1.733 \times 41 \times \text{Henry's Law Constant (atm.-m}^3/\text{mole)})]$.
- 12 (i) If no groundwater standard or interim standard has been established under Rule
 13 .0202 of this Subchapter, the practical quantitation limit shall be used in lieu of a
 14 standard to calculate the soil-to-groundwater maximum contaminant
 15 concentrations.
- 16 (ii) The following references or the most recent version of these references, in order
 17 of preference, shall be used to obtain soil organic carbon-water partition
 18 coefficients and Henry's Law Constants:
- 19 (A) EPA, 1996. ~~Soil Screening Guidance: Technical Background Document.~~
 20 ~~(EPA/540/R95/128);~~EPA. Superfund Chemical Data Matrix (SCDM),
 21 incorporated by reference including subsequent amendments or editions
 22 and may be obtained electronically free of charge from the United States
 23 Environmental Protection Agency website at
 24 <https://www.epa.gov/superfund/superfund-chemical-data-matrix-scdm>;
- 25 (B) EPA, 1986. ~~Superfund Public Health Evaluation Manual. Office of~~
 26 ~~Emergency and Remedial Response (EPA/540/1-86/060);~~1991. Risk
 27 Assessment Guidance for Superfund: Volume I Human Health
 28 Evaluation Manual (Part A), incorporated by reference including
 29 subsequent amendments or editions and may be obtained electronically
 30 free of charge from the United States Environmental Protection Agency
 31 website at [https://www.epa.gov/risk/risk-assessment-guidance-](https://www.epa.gov/risk/risk-assessment-guidance-superfund-rags-part/)
 32 [superfund-rags-part/](https://www.epa.gov/risk/risk-assessment-guidance-superfund-rags-part/); it is Volume I of the three-volume set called Risk
 33 Assessment Guidance for Superfund;
- 34 (C) Agency for Toxic Substances and Disease Registry, "Toxicological
 35 Profile for [individual chemical]." ~~U.S. Public Health~~
 36 ~~Service;~~chemical]." incorporated by reference including subsequent
 37 amendments or editions and may be obtained electronically free of

1 charge from the United States Agency for Toxic substances and Disease
2 Registry website at <https://www.atsdr.cdc.gov/substances/index.asp>;

3 (D) Montgomery, J.H., 1996-2007. Groundwater Chemicals Desk
4 Reference. CRC Press, Inc.; Press. This document is incorporated by
5 reference including subsequent amendments and editions, and may be
6 obtained for a charge of two hundred ninety six dollars (\$296.00) at
7 [https://www.crcpress.com/Groundwater-Chemicals-Desk-](https://www.crcpress.com/Groundwater-Chemicals-Desk-Reference/Montgomery/p/book/9780849392764/)
8 [Reference/Montgomery/p/book/9780849392764/](https://www.crcpress.com/Groundwater-Chemicals-Desk-Reference/Montgomery/p/book/9780849392764/) or a copy may be
9 reviewed at the Division of Waste Management, Underground Storage
10 Tank Section office at 217 West Jones Street, Raleigh, N.C. 27603; and

11 ~~(E) — Sims, R.C., J.L. Sims and S.G. Hansen, 1991. Soil Transport and Fate~~
12 ~~Database, Version 2.0. EPA Robert S. Kerr Environmental Laboratory;~~
13 ~~and~~

14 ~~(F)(E) Other appropriate, published, peer reviewed and scientifically valid~~
15 ~~peer-reviewed published data.~~

16 (b) Inorganic Constituents:

17 Soil mg/kg = groundwater standard or interim standard x [(20 x soil-water partition
18 coefficient for pH of 5.5) + 4 + (1.733 x 41 x Henry's Law Constant (atm.-m3/mole))].

19 (i) If no groundwater standard or interim standard has been established under Rule
20 .0202 of this Subchapter, the practical quantitation limit shall be used in lieu of a
21 standard to calculate the soil-to-groundwater maximum contaminant
22 concentrations.

23 (ii) The following references or the most recent version of these references, in order
24 of preference, shall be used to obtain soil-water partition coefficients and Henry's
25 Law Constants:

26 (A) ~~EPA, 1996. Soil Screening Guidance: Technical Background Document.~~
27 ~~(EPA/540/R95/128); EPA. Superfund Chemical Data Matrix (SCDM);~~

28 (B) Baes, C.F., III, R.D. Sharp, A.L. Sjoreen, and R.W. Shor, 1984. A
29 Review and Analysis of Parameters for Assessing Transport of
30 Environmentally Released Radionuclides Through Agriculture. Oak
31 Ridge National ~~Laboratory;~~ Laboratory, incorporated by reference
32 including subsequent amendments or editions and may be obtained
33 electronically free of charge from the United States Nuclear Regulatory
34 Commission website at <https://www.nrc.gov>;

35 (C) Agency for Toxic Substances and Disease Registry, "Toxicological
36 Profile for [individual ~~chemical]."~~ ~~U.S. Public Health~~
37 ~~Service;~~ chemical];" and

1 ~~(D) — Sims, R.C., J.L. Sims and S.G. Hansen, 1991. Soil Transport and Fate~~
2 ~~Database, Version 2.0. EPA Robert S. Kerr Environmental Laboratory;~~
3 ~~and~~
4 ~~(E)(D) Other appropriate, published, peer reviewed and scientifically valid~~
5 ~~peer-reviewed published data.~~

6
7 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
8 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*
9 *Recodified from 15A NCAC 02L .0115(m);*
10 *Amended Eff. December 1, ~~2005-2005~~;*
11 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0412 is readopted with changes as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0412 ANALYTICAL PROCEDURES FOR SOIL SAMPLES**

4 (a) Analytical procedures for soil samples required under this ~~Section, except as provided in 15A NCAC 02L .0417~~
5 ~~of this Section, Section~~ shall be methods accepted by the US EPA as suitable for determining the presence and
6 concentration of petroleum hydrocarbons for the type of petroleum released.

7 (b) ~~A sufficient number of soil~~Soil samples collected, including the most contaminated sample, shall be analyzed as
8 follows in order to determine the risks of the constituents of contamination:

9 (1) soil samples collected from a discharge or release of low boiling point fuels, ~~including, but not~~
10 ~~limited to, including~~ gasoline, aviation ~~gasoline~~gasoline, and gasohol, shall be analyzed for volatile
11 organic compounds and ~~additives~~additives, ~~including isopropyl ether and methyl tertiary butyl ether,~~
12 using EPA Method 8260, ~~including isopropyl ether and methyl tertiary butyl ether;~~8260;

13 (2) soil samples collected from a discharge or release of high boiling point fuels, ~~including, but not~~
14 ~~limited to, including~~ kerosene, diesel, varsol, mineral spirits, naphtha, jet ~~fuels~~fuels, and fuel oil no.
15 2, shall be analyzed for volatile organic compounds using EPA Method 8260 and semivolatile
16 organic compounds using EPA Method 8270;

17 (3) soil samples collected from a discharge or release of heavy fuels shall be analyzed for semivolatile
18 organic compounds using EPA Method 8270;

19 (4) soil samples collected from a discharge or release of used and waste oil shall be analyzed for volatile
20 organic compounds using EPA Method 8260, semivolatile organic compounds using EPA Method
21 8270, polychlorinated biphenyls using EPA Method 8080, and chromium and ~~lead~~lead using
22 procedures specified in Subparagraph (6) of this Paragraph;

23 (5) soil samples collected from ~~any~~a discharge or release subject to this Section shall be analyzed for
24 alkane and aromatic carbon fraction classes using methods approved by the Director under ~~Rule 2H~~
25 ~~.0805(a)(1) of this Chapter;~~15A NCAC 02H .0805(a)(1);

26 (6) analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this Paragraph shall be
27 performed as specified in the following references or the most recent version of these references:
28 Test Methods for Evaluating Solid Wastes:Physical/Chemical Methods, November 1990, U.S.
29 Environmental Protection Agency publication number ~~SW-846~~SW-846, ~~is incorporated by~~
30 ~~reference and may be purchased for a cost of three hundred sixty seven dollars (\$367.00) from the~~
31 Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402;
32 or in accordance with other methods or procedures approved by the Director under 15A NCAC
33 ~~2H02H~~.0805(a)(1);

34 (7) other EPA-approved analytical methods may be used if the methods include the same constituents
35 as the analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this Paragraph and meet
36 the detection limits of the analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this
37 Paragraph; and

1 15A NCAC 02L .0413 is readopted with changes as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0413 ANALYTICAL PROCEDURES FOR GROUNDWATER SAMPLES**

4 (a) Analytical procedures for groundwater samples required under this Section shall be methods accepted by the US
5 EPA as suitable for determining the presence and concentration of petroleum hydrocarbons for the type of petroleum
6 released.

7 (b) ~~A sufficient number of groundwater~~Groundwater samples, including the most contaminated sample, shall be
8 analyzed as follows in order to determine the risks of the constituents of contamination:

9 (1) groundwater samples collected from a discharge or release of low boiling point fuels, ~~including, but~~
10 ~~not limited to, including~~ gasoline, aviation ~~gasoline~~gasoline, and gasohol, shall be analyzed for
11 volatile organic ~~compounds~~compounds, including xylenes, isopropyl ether, and methyl tertiary
12 butyl ether, using Standard Method ~~6210D, 6200B~~ or EPA Methods 601 and ~~602, including xylenes,~~
13 ~~isopropyl ether and methyl tertiary butyl ether.~~602. Samples shall also be analyzed for ethylene
14 dibromide using EPA Method 504.1 and lead using Standard Method 3030C preparation. 3030C
15 metals preparation, using a 0.45 micron filter, ~~must~~shall be completed within 72 hours of sample
16 collection;

17 (2) groundwater samples collected from a discharge or release of high boiling point fuels, ~~including,~~
18 ~~but not limited to, including~~ kerosene, diesel, varsol, mineral spirits, naphtha, jet ~~fuels~~fuels, and fuel
19 oil no. 2, shall be analyzed for volatile organic compounds using EPA Method 602 and semivolatile
20 organic compounds plus the 10 largest non-target peaks identified using EPA Method 625;

21 (3) groundwater samples collected from a discharge or release of heavy fuels shall be analyzed for
22 semivolatile organic compounds plus the 10 largest non-target peaks identified using EPA Method
23 625;

24 (4) groundwater samples collected from a discharge or release of used or waste oil shall be analyzed
25 for volatile organic compounds using Standard Method ~~6210D, 6200B~~, semivolatile organic
26 compounds plus the 10 largest non-target peaks identified using EPA Method 625, and chromium
27 and lead using Standard Method 3030C preparation. 3030C metals preparation, using a 0.45 micron
28 filter, ~~must~~shall be completed within 72 hours of sample collection;

29 (5) groundwater samples collected from ~~any~~ discharge or release subject to this Section shall be
30 analyzed for alkane and aromatic carbon fraction classes using methods approved by the Director
31 under ~~Rule 2H .0805(a)(1) of this Chapter;~~15A NCAC 02H .0805(a)(1);

32 (6) analytical methods specified in Subparagraphs (1), (2), (3) and (4) of this Paragraph shall be
33 performed as specified in the following references or the most recent version of these references:

34 (A) Guidelines Establishing Test Procedures for the Analysis of Pollutants under the Clean
35 Water Act, Federal Register Vol. 49 No. 209, 40 CFR Part 136, October 26, 1984;is
36 incorporated by reference and may be obtained electronically free of charge from the

1 United States Environmental Protection Agency website at [https://www.epa.gov/cwa-](https://www.epa.gov/cwa-methods)
2 methods;

3 (B) Standard Methods for the Examination of Water and Wastewater, published jointly by
4 American Public Health Association, American Water Works Association and Water
5 Pollution Control Federation; Federation, is incorporated by reference and is available for
6 purchase from the American Water Works Association (AWWA), 6666 West Quincy
7 Avenue, Denver, CO 80235 for a charge of one hundred sixty dollars (\$160.00) for the 18th
8 Edition, one hundred eighty dollars (\$180.00) for the 19th Edition, and two hundred dollars
9 (\$200.00) for the 20th Edition; Methods for Determination of Organic Compounds in
10 Drinking Water, U.S. Environmental Protection Agency publication number EPA 600/4-
11 79-020; or

12 (C) in accordance with other methods or procedures approved by the Director under 15A
13 NCAC 2H02H .0805(a)(1);

14 (7) other EPA-approved analytical methods may be used if the methods include the same constituents
15 as the analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this Paragraph and meet
16 the detection limits of the analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this
17 Paragraph; and

18 (8) metals and acid extractable organic compounds shall be eliminated from analyses of groundwater
19 samples collected pursuant to this Section if these compounds are not detected in the groundwater
20 sample collected from the source area monitoring well installed pursuant to ~~15A NCAC 02L~~Rule
21 .0405 of this Section.

22
23 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
24 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*
25 *Recodified from 15A NCAC 02L .0115(o);*
26 *Amended Eff. December 1, 2005-2005;*
27 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0414 is readopted as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0414 REQUIRED LABORATORY CERTIFICATION**

4 In accordance with 15A NCAC 02H .0804, laboratories ~~are required to~~shall obtain North Carolina Division of Water
5 Quality Resources laboratory certification for parameters that are required to be reported to the State in compliance
6 with the State's surface water, ~~groundwater~~groundwater, and pretreatment rules.

7

8 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
9 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*

10 *Recodified from 15A NCAC 02L .0115(p);*

11 *Amended Eff. December 1, ~~2005-2005~~;*

12 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0415 is readopted with changes as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0415 DISCHARGES OR RELEASES FROM OTHER SOURCES**

4 This Section shall not relieve any person responsible for assessment or cleanup of contamination from a source other
5 than a commercial or noncommercial underground storage tank from its obligation to assess and clean up
6 contamination resulting from ~~such~~the discharge or releases.

7

8 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
9 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*

10 *Recodified from 15A NCAC 02L .0115(q);*

11 *Amended Eff. December 1, ~~2005-2005~~;*

12 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0501 is readopted with changes as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0501 PURPOSE-AND-SCOPE**

4 (a) The purpose of this Section is to establish procedures for risk-based assessment and corrective action sufficient
5 to:

- 6 (1) protect human health and the environment;
- 7 (2) abate and control contamination of the waters of the State as deemed necessary to protect human
8 health and the environment;
- 9 (3) permit management of the State's groundwaters to protect their designated current usage and
10 potential future uses;
- 11 (4) provide for anticipated future uses of the State's groundwater;
- 12 (5) recognize the diversity of contaminants, the State's geology, and the characteristics of each
13 individual site; and
- 14 (6) accomplish these goals in a cost-efficient manner to assure the best use of the limited resources
15 available to address groundwater pollution within the State.

16 (b) ~~The applicable portions of Section .0100 not specifically excluded apply to this Section of this Subchapter shall~~
17 apply to this Section unless specifically excluded.

18

19 *History Note: Authority G.S. 143-215.3(a)(1); ~~143B-282~~; 143-215.84; 143-215.104AA; 143B-282;*
20 *Eff. March 1, ~~2016~~ 2016;*
21 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0502 is readopted with changes as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0502 DEFINITIONS**

4 The definitions as set out in Rule .0102 of this Subchapter ~~apply to this Section, in addition the following~~
5 ~~definitions~~ and the following definitions shall apply throughout this Section:

- 6 (1) "Aboveground storage tank" or "AST" means any one or a combination of tanks ~~(including~~
7 ~~underground tanks, including~~ pipes connected ~~thereto)~~thereto, that is used to contain an
8 accumulation of petroleum.
- 9 (2) "AST system" means an aboveground storage tank, connected ~~underground piping, underground~~
10 ancillary equipment, and containment system, if any.
- 11 (3) "Discharge" includes any emission, spillage, leakage, pumping, pouring, emptying, or dumping of
12 oil into groundwater or surface water or upon land in such proximity to such water that it is likely
13 to reach the water and any discharge upon land which is intentional, knowing, or willful.
- 14 (4) "Non-UST means as defined in G.S. 143-215.104AA(g) and excludes underground storage tank
15 releases governed by G.S. 143-215.94V.
- 16 (5) "Operator" means any person in control ~~of~~of or having responsibility for the daily operation of the
17 AST system.
- 18 (6) "Owner" means any person who owns a petroleum aboveground storage tank or other non-UST
19 petroleum tank, stationary or mobile, used for storage, use, dispensing, or transport.
- 20 (7) "Person" means an individual, trust, firm, joint stock company, Federal agency, corporation, state,
21 municipality, commission, political subdivision of a state, or any interstate body. "Person" also
22 includes a consortium, a joint venture, a commercial entity, and the United States Government.
- 23 (8) "Petroleum" or "petroleum products" means as defined in G.S. 143-215.94A(10).
- 24 (9) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing into
25 groundwater, surface water, or surface or subsurface soils.
- 26 (10) "Tank" means a device used to contain an accumulation of petroleum and constructed of non-earthen
27 ~~materials (e.g., materials, such as concrete, steel, plastic)~~or plastic, that provides structural support.

28
29 *History Note: Authority G.S. 143-212(4); 143-215.3(a)(1); 143-215.77; ~~143B-282;~~ 143-215.84; 143-215.104AA;*
30 *~~143B-282;~~*
31 *Eff. March 1, ~~2016,~~ 2016;*
32 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0503 is readopted with changes as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0503 RULE APPLICATION**

4 ~~This Section applies to any non-UST petroleum discharge.~~ The requirements of this Section shall apply to the owner
5 and operator of a petroleum aboveground storage tank or other non-UST petroleum tank, stationary or mobile, from
6 which a discharge or release occurred and to any person determined to be responsible for assessment and cleanup of
7 a discharge or release from a non-UST petroleum source. This includes any source, including any person who has
8 conducted or controlled an activity that results in the discharge or release of petroleum or petroleum products (as
9 defined in G.S. 143-215.94A(10)) to the groundwaters of the State, State or in proximity thereto. These persons shall
10 be collectively referred to as the "responsible party" for purposes of this Section.

11

12 *History Note: Authority G.S. 143-215.3(a)(1); ~~143B-282~~; 143-215.84; 143-215.104AA; 143B-282;*

13 *Eff. March 1, ~~2016~~; 2016;*

14 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0504 is readopted with changes as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0504 REQUIRED INITIAL RESPONSE AND ABATEMENT ACTIONS BY**
4 **RESPONSIBLE PARTY**

5 Upon a discharge or release of petroleum from a non-UST petroleum source the responsible party shall:

- 6 (1) take actions -to prevent ~~any~~ further discharge or release of petroleum from the non-UST petroleum
7 source; identify and mitigate ~~any~~ fire, explosion, or vapor hazard; and report the release within
8 24 hours of discovery, in compliance with G.S. 143-215.83(a), 84(a), and 85(b);
- 9 (2) perform -initial abatement actions to measure for the presence of a release where contamination is
10 most likely to be ~~present~~ present; and to confirm the ~~precise~~ source of the release; ~~to~~ investigate to
11 determine the possible presence of free ~~product~~ and to product; begin free product removal; and to
12 continue to monitor and mitigate ~~any~~ additional fire, explosion, or vapor hazards posed by vapors
13 or by free product; and submit a report to the Department of Environmental Quality, UST Section,
14 Regional Office Supervisor in accordance with 15A NCAC 02B .0309 and .0311, within 20 days
15 after release confirmation summarizing these initial abatement actions;
- 16 (3) remove contaminated soil that would act as a continuing source of contamination to groundwater.
17 For a new release, no further action shall be necessary ~~where:~~ if:
- 18 (a) initial abatement actions involving control and removal of contaminated materials are
19 initiated within 48 hours from discovery and before contaminated materials begin to impact
20 groundwater; and
- 21 (b) analysis, in accordance with the approved methods in Rule .0412 of this Subchapter, of
22 representative samples of remaining soils shows concentrations:
- 23 (i) at or below the more stringent of the soil-to-groundwater concentration value and
24 the residential maximum soil contamination concentration ~~value,~~ value; or
- 25 (ii) using other ~~EPA approved~~ EPA approved analytical methods in accordance with
26 Rule .0412(b)(7) of this ~~Subchapter~~ Subchapter, concentration values below the
27 more stringent of the soil-to-groundwater concentration alkane and aromatic
28 carbon fraction class values and the residential maximum soil contamination
29 concentration alkane and aromatic carbon fraction class ~~values,~~ values;

30 ~~Provided that, for new releases, if the abatement actions cannot be initiated within 48 hours of discovery, or if soil~~
31 ~~concentrations remain above the values in this Paragraph, the responsible party shall conduct all activities under Items~~
32 ~~(1) through (5) of this Rule;~~

33 For new releases, if the abatement actions cannot be initiated within 48 hours of discovery or if soil
34 concentrations remain above the values in this Paragraph, the responsible party shall conduct all
35 activities under Items (1) through (5) of this Rule;

- 36 (4) conduct initial site assessment, assembling information about the site and the nature of the release,
37 including the following:

- 1 (a) ~~site~~ site history and site characterization, including data on nature and estimated quantity
2 of release and data from available sources and site investigations concerning surrounding
3 populations, water quality, use, and approximate locations of wells, surface water bodies,
4 and subsurface structures potentially ~~effected~~ affected by the release, subsurface soil
5 conditions, locations of subsurface utilities, climatological conditions, and ~~land use;~~ land
6 use;
- 7 (b) ~~results~~ the results of free product investigations and free product removal, if applicable;
- 8 (c) ~~results~~ the results of groundwater and surface water investigations, if applicable;
- 9 (d) ~~summary~~ a summary of initial response and abatement actions; and ~~submit this information~~
10 ~~in the report required under Item (5) of this Rule; and~~
- 11 (5) submit as required in Item (2) of this Rule, within 90 days of the discovery of the discharge or
12 ~~release an initial assessment and abatement report containing the site characterization information~~
13 ~~required in Item (4) of this Rule; soil assessment information sufficient to show that remaining~~
14 ~~unsaturated soil in the side walls and at the base of the excavation does not contain contaminant~~
15 ~~levels which exceed either the "soil to groundwater" or the residential maximum soil contaminant~~
16 ~~concentrations established by the Department pursuant to Rule .0511 of this Section, whichever is~~
17 ~~lower; and documentation to show that neither bedrock nor groundwater was encountered in the~~
18 ~~excavation (or if groundwater was encountered, that contaminant concentrations in groundwater~~
19 ~~were equal to or less than the groundwater quality standards established in Rule .0202 of this~~
20 ~~Subchapter); release:~~
- 21 (a) ~~an initial assessment and abatement report as required in Item (4) of this Rule;~~
- 22 (b) ~~soil assessment information sufficient to show that remaining unsaturated soil in the side~~
23 ~~walls and at the base of the excavation does not contain contaminant levels that exceed~~
24 ~~either the soil-to-groundwater or the residential maximum soil contaminant concentrations~~
25 ~~established by the Department pursuant to Rule .0511 of this Section, whichever is lower;~~
26 ~~and~~
- 27 (c) ~~documentation to show that neither bedrock nor groundwater was encountered in the~~
28 ~~excavation or, if groundwater was encountered, that contaminant concentrations in~~
29 ~~groundwater were equal to or less than the groundwater quality standards established in~~
30 ~~Rule .0202 of this Subchapter. If such showing is made, the discharge or release shall be~~
31 ~~classified as low risk by the Department.~~

32 ~~If such showing is made, the discharge or release shall be classified as low risk by the Department.~~

33
34 *History Note:* Authority G.S. 143-215.3(a)(1); ~~143B-282~~; 143-215.84; 143-215.104AA; ~~143B-282~~;
35 Eff. March 1, ~~2016~~ 2016;
36 Readopted Eff. June 1, 2019.

1 15A NCAC 02L .0505 is readopted with changes as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0505 REQUIREMENTS FOR LIMITED SITE ASSESSMENT**

4 (a) If the required showing cannot be made by the responsible party under Rule .0504 of this Section, the responsible
5 party shall submit within 120 days of the discovery of the discharge or release, a report as required in Rule .0504 of
6 this Section, containing information needed by the Department to classify the level of risk to human health and the
7 environment posed by a discharge or release under Rule .0506 of this Section.

8 (b) The responsible party may submit a written request an extension to the 120 day deadline set forth in Paragraph
9 (a) of this Rule prior to the deadline that demonstrates to the Department for the Department's consideration prior to
10 the deadline. The request for deadline extension by the responsible party shall demonstrate that the extension extension,
11 if granted by the Department, would not increase the risk posed by the release. When considering a request from a
12 responsible party for additional time to submit the report, the Department shall consider the following:

13 (1) the extent to which the request for additional time is due to factors outside of the control of the
14 responsible party;

15 (2) the previous history of the person submitting the report in complying with deadlines established
16 under the Commission's rules;

17 (3) the technical complications associated with assessing the extent of contamination at the site or
18 identifying potential receptors; and

19 (4) the necessity for action to eliminate an imminent threat to public health or the environment.

20 (c) SuchThe report shall include the following:include:

21 (1) a location map, based on a USGS topographic map, showing the radius of 1500 feet from the source
22 area of a confirmed release or discharge and depicting all water supply wells, surface waters, and
23 designated "wellhead protection areas" as defined in 42 U.S.C. 300h-7(e) within the 1500-foot
24 radius. 42 U.S.C. 300h-7(e), is incorporated by reference including subsequent amendments and
25 editions. Copies may be obtained at no cost from the U.S. Government Bookstore's website at
26 [http://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/html/USCODE-2010-title42-chap6A-
28 subchapXII-partC-sec300h-7.htm](http://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/html/USCODE-2010-title42-chap6A-
27 subchapXII-partC-sec300h-7.htm). The material is available for inspection at the Department of
29 Environmental Quality, UST Section, 217 West Jones Street, Raleigh, NC 27603. For purposes of
30 this Section, "~~source~~ "source area" means point of release or discharge from the non-UST petroleum
31 source, or if the point of release cannot be determined precisely, "source area" means the area of
highest contaminant concentrations;

32 (2) a determination of whether the source area of the discharge or release is within a designated
33 "wellhead protection area" as defined in 42 U.S.C. 300h-7(e);

34 (3) if the discharge or release is in the Coastal Plain physiographic region as designated on a map
35 entitled "Geology of North Carolina" published by the Department in 1985, incorporated by
36 reference including subsequent amendments or editions and may be obtained electronically free of
37 charge from the Department's website at <https://deq.nc.gov/about/divisions/energy-mineral-land->

1 resources/north-carolina-geological-survey/ncgs-maps/1985-geologic-map-of-nc, a determination
2 of whether the source area of the discharge or release is located in an area in which there is recharge
3 to an unconfined or semi-confined deeper aquifer that is being used or may be used as a source of
4 drinking water;

5 (4) a determination of whether vapors from the discharge or release pose a threat of explosion due to
6 the accumulation of vapors in a confined space; pose a risk to public health from exposure; or pose
7 any other ~~serious~~ threat to public health, public safety, or the environment;

8 (5) scaled site ~~map(s)~~ maps showing the location of the following that are on or adjacent to the property
9 where the source is located:

10 ~~(a)~~(A) site boundaries;

11 ~~(b)~~(B) roads;

12 ~~(c)~~(C) buildings;

13 ~~(d)~~(D) basements;

14 ~~(e)~~(E) floor and storm drains;

15 ~~(f)~~(F) subsurface utilities;

16 ~~(g)~~(G) septic tanks and leach fields;

17 ~~(h)~~(H) underground and aboveground storage tank systems;

18 ~~(i)~~(I) monitoring wells;

19 ~~(j)~~(J) water supply wells;

20 ~~(k)~~(K) surface water bodies and other drainage features;

21 ~~(l)~~(L) borings; and

22 ~~(m)~~(M) the sampling points;

23 (6) the results from a limited site assessment that shall include the following actions:

24 ~~(a)~~(A) determine the presence, the lateral and vertical extent, and the maximum concentration
25 levels of soil and, if possible, groundwater contamination and free product accumulations;

26 ~~(b)~~(B) install monitoring wells constructed in accordance with 15A NCAC 02C ~~.0108, 0108~~
27 within the area of maximum soil or groundwater contamination to determine the
28 groundwater flow direction and maximum concentrations of dissolved groundwater
29 contaminants or accumulations of free product. During well construction, the responsible
30 party shall collect and analyze soil samples that represent the suspected highest
31 contaminant-level locations by exhibiting visible contamination or elevated levels of
32 volatile organic ~~compounds, compounds~~ from successive locations at five-foot depth
33 intervals in the boreholes of each monitoring well within the unsaturated zone; collect
34 potentiometric data from each monitoring well; and collect and analyze groundwater or
35 measure the amount of free product, if present, in each monitoring well;

36 (7) the availability of public water supplies and the identification of properties served by the public
37 water supplies within 1500 feet of the source area of a confirmed discharge or release;

- 1 (8) the land use, including zoning if applicable, within 1500 feet of the source area of a confirmed
2 discharge or release;
- 3 (9) a discussion of ~~site-specific~~ site-specific conditions or possible actions that may result in lowering
4 the risk classification assigned to the release. Such discussion shall be based on information known
5 or required to be obtained under this Item; and
- 6 (10) names and current addresses of all responsible parties for all petroleum sources for which a
7 discharge or release is confirmed, the ~~owner(s)~~ owners of the land upon which such petroleum
8 sources are located, and all potentially affected real property owners. Documentation of ownership
9 of ASTs or other sources and of the property upon which a source is located shall be provided. ~~When~~
10 ~~considering a request from a responsible party for additional time to submit the report, the~~
11 ~~Department shall consider the following:~~
- 12 (a) ~~the extent to which the request for additional time is due to factors outside of the control~~
13 ~~of the responsible party;~~
- 14 (b) ~~the previous history of the person submitting the report in complying with deadlines~~
15 ~~established under the Commission's rules;~~
- 16 (c) ~~the technical complications associated with assessing the extent of contamination at the~~
17 ~~site or identifying potential receptors; and~~
- 18 (d) ~~the necessity for action to eliminate an imminent threat to public health or the environment.~~

19

20 *History Note: Authority G.S. 143-215.3(a)(1); ~~143B-282~~; 143-215.84; 143-215.104AA; 143B-282;*
21 *Eff. March 1, ~~2016~~. 2016;*
22 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0506 is readopted with changes as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0506 DISCHARGE OR RELEASE CLASSIFICATIONS**

4 The Department shall classify the risk of each known discharge or release as high, ~~intermediate~~intermediate, or low
5 risk, unless the discharge or release has been classified under Rule .0504 of this Section. For purposes of this Section:

6 (1) "High risk" means that:

- 7 (a) a water supply well, including one used for non-drinking purposes, has been contaminated
8 by ~~the~~a release or discharge;
- 9 (b) a water supply well used for drinking water is located within 1000 feet of the source area
10 of a confirmed discharge or release;
- 11 (c) a water supply well not used for drinking water is located within 250 feet of the source area
12 of a confirmed discharge or release;
- 13 (d) the groundwater within 500 feet of the source area of a confirmed discharge or release has
14 the potential for future use in that there is no source of water supply other than the
15 groundwater;
- 16 (e) the vapors from ~~the~~a discharge or release pose a serious threat of explosion due to
17 accumulation of the vapors in a confined space or pose a risk to public health from
18 exposure; or
- 19 (f) ~~the~~a discharge or release poses an imminent danger to public health, public safety, or the
20 environment.

21 (2) "Intermediate risk" means that:

- 22 (a) surface water is located within 500 feet of the source area of a confirmed discharge or
23 release and the maximum groundwater contaminant concentration exceeds the applicable
24 surface water quality standards and criteria found in 15A NCAC 02B .0200 by a factor of
25 10;
- 26 (b) in the Coastal Plain physiographic region as designated on a map entitled "Geology of
27 North Carolina" published by the Department in 1985, the source area of a confirmed
28 discharge or release is located in an area in which there is recharge to an unconfined or
29 semi-confined deeper aquifer that the Department determines is being used or may be used
30 as a source of drinking water;
- 31 (c) the source area of a confirmed discharge or release is within a designated wellhead
32 protection area, as defined in 42 U.S.C. 300h-7(e);
- 33 (d) the levels of groundwater contamination for any contaminant except ethylene dibromide,
34 benzene, and alkane and aromatic carbon fraction classes exceed 50 percent of the
35 solubility of the contaminant at 25 degrees Celsius or 1,000 times the groundwater standard
36 or interim standard established in Rule .0202 of this Subchapter, whichever is lower; or

1 (e) the levels of groundwater contamination for ethylene dibromide and benzene exceed 1,000
2 times the federal drinking water standard as referenced in 15A NCAC 18C ~~1518~~
3 ~~hereby, 1518~~, incorporated by reference including subsequent amendments and editions
4 and is available free of charge at [http://reports.oah.state.nc.us/ncac/title 15a -](http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20c/15a%20ncac%2018c%201518.pdf)
5 [environmental quality/chapter 18 - environmental health/subchapter c/15a ncac 18c](http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20c/15a%20ncac%2018c%201518.pdf)
6 [.1518.pdf](http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20c/15a%20ncac%2018c%201518.pdf).

7 (3) "Low risk" means that:

- 8 (a) the risk posed does not fall within the high or intermediate risk categories; or
9 (b) based on review of site-specific information, limited assessment, or interim corrective
10 actions, ~~the Department determines that~~ the discharge or release poses no significant risk
11 to human health or the environment.

12 If the criteria for more than one risk category applies, the discharge or release shall be classified at the highest risk
13 level identified in Rule .0507 of this Section.

14
15 *History Note:* Authority G.S. 143-215.3(a)(1); ~~143B-282~~; 143-215.84; 143-215.104AA; 143B-282;
16 Eff. March 1, 2016; 2016;
17 Readopted Eff. June 1, 2019.

1 15A NCAC 02L .0507 is readopted with changes as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0507 RECLASSIFICATION OF RISK LEVELS**

4 (a) Each responsible party shall have the continuing obligation to notify the Department of any changes that may affect
5 the level of risk assigned to a discharge or release by the Department if the change is known or should be known by
6 the responsible party, including changes in zoning of real property, use of real property, or the use of groundwater that
7 has been contaminated or is expected to be contaminated by the discharge or release. The Department may reclassify
8 the risk posed by a release if warranted by further information concerning the potential exposure of receptors to the
9 discharge or release or upon receipt of new information concerning changed conditions at the site. After initial
10 classification of the discharge or release, the Department may require limited assessment, interim corrective action,
11 or other actions that the Department believes may result in a lower risk classification. It shall be a continuing obligation
12 of each responsible party to notify the Department of any changes that may affect the level of risk assigned to a
13 discharge or release by the Department if the change is known or should be known by the responsible party. Such
14 changes may include changes in zoning of real property, use of real property, or the use of groundwater that has been
15 contaminated or is expected to be contaminated by the discharge or release.

16 (b) The Department shall reclassify the risk posed by a release if warranted by further information concerning the
17 potential exposure of receptors to the discharge or release or upon receipt of new information concerning changed
18 conditions at the site. After initial classification of the discharge or release, the Department may require limited
19 assessment, interim corrective action, or other actions that the Department believes will result in a lower risk
20 classification.

21 (b)(c) Remediation of sites with off-site migration shall be subject to the provisions of G.S. 143-215.104AA.

22 (c)(d) If the risk posed by a discharge or release is determined by the Department to be high risk, the responsible party
23 shall comply with the assessment and cleanup requirements of Rule .0106(c), (g), and (h) of this Subchapter. The goal
24 of ~~any~~ required corrective action for groundwater contamination shall be restoration to the level of the groundwater
25 standards set forth in Rule .0202 of this Subchapter, or as closely thereto as is economically and technologically
26 ~~feasible as determined by the Department.~~ feasible. In ~~any~~ corrective action plan submitted pursuant to this Paragraph,
27 natural attenuation may be used when the benefits of its use ~~shall~~ do not increase the risk to the environment and human
28 ~~health as determined by the Department.~~ health. If the responsible party demonstrates that natural attenuation prevents
29 the further migration of the plume, the Department may approve a groundwater monitoring plan.

30 (d)(e) If the risk posed by a discharge or release is determined by the Department to be an intermediate risk, the
31 responsible party shall comply with the assessment requirements of Rule .0106(c) and (g) of this Subchapter. As part
32 of the comprehensive site assessment, the responsible party shall evaluate, based on site specific conditions, whether
33 the release poses a significant risk to human health or the environment. If the Department determines, based on the
34 site-specific conditions, that the discharge or release does not pose a significant threat to human health or the
35 environment, the site shall be reclassified as a low risk site. If the site is not reclassified, the responsible party shall,
36 at the direction of the Department, submit a groundwater monitoring plan or a corrective action plan, or a combination
37 thereof, meeting the cleanup standards of this Paragraph and containing the information required in Rule .0106(h) of

1 this Subchapter. Discharges or releases that are classified as intermediate risk shall be remediated, at a minimum, to a
2 cleanup level of 50 percent of the solubility of the contaminant at 25 degrees Celsius or 1,000 times the groundwater
3 standard or interim standard established in Rule .0202 of this Subchapter, whichever is ~~lower~~lower, for any
4 groundwater contaminant except ethylene dibromide, benzene, and alkane and aromatic carbon fraction classes.
5 Ethylene dibromide and benzene shall be remediated to a cleanup level of 1,000 times the federal drinking water
6 standard as referenced in 15A NCAC 18C ~~.1518 is hereby~~.1518, incorporated by reference including subsequent
7 amendments and editions and ~~is~~ available free of charge at [http://reports.oah.state.nc.us/ncac/title 15a - environmental](http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20c/15a%20ncac%2018c%20-%201518.pdf)
8 [quality/chapter 18 - environmental health/subchapter c/15a ncac 18c .1518.pdf](http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20c/15a%20ncac%2018c%20-%201518.pdf). Additionally, if a corrective
9 action plan or groundwater monitoring plan is required under this Paragraph, the responsible party shall demonstrate
10 that the groundwater cleanup levels are sufficient to prevent a violation of:

- 11 (1) the rules contained in 15A NCAC 02B;
- 12 (2) the standards contained in Rule .0202 of this Subchapter in a deep aquifer as described in Rule
13 .0506(2)(b) of this Section; and
- 14 (3) the standards contained in Rule .0202 of this Subchapter at a location no closer than one year time
15 of travel upgradient of a well within a designated wellhead protection area, based on travel time and
16 the natural attenuation capacity of the subsurface materials or on a physical barrier to groundwater
17 migration that exists or will be installed by the person making the request.

18 In any corrective action plan submitted pursuant to this Paragraph, natural attenuation may be used ~~when~~if the benefits
19 of its use ~~shall~~does not increase the risk to the environment and human health and shall not increase the costs of the
20 corrective action.

21 ~~(e)(f)~~ If the risk posed by a discharge or release is determined ~~by the Department~~ to be a low risk, the Department
22 shall notify the responsible party that no cleanup, no further cleanup, or no further action ~~will be~~is required by the
23 Department, unless the Department later determines that the discharge or release poses an unacceptable risk or a
24 potentially unacceptable risk to human health or the environment. No notification shall be issued pursuant to this
25 Paragraph, however, until the responsible party ~~has completed soil remediation pursuant to Rule .0508 of this Section~~
26 ~~or as closely thereto as economically or technologically feasible as determined by the Department; has submitted proof~~
27 ~~of public notification and has recorded any land use restriction(s), if required; and paid any applicable statutorily~~
28 ~~authorized fees.~~ has:

- 29 (1) completed soil remediation pursuant to Rule .0508 of this Section or as closely thereto as
30 economically or technologically feasible;
- 31 (2) submitted proof of public notification, if required pursuant to Rule .0409(b) of this Section;
- 32 (3) recorded all required land-use restrictions pursuant to G.S. 143B-279.9 and 143B-279.11; and
- 33 (4) paid any applicable statutorily authorized fees.

34 ~~The issuance by the Department of a notification under this Paragraph shall not affect any private right of action by~~
35 ~~any party that may be affected by the contamination.~~

36
37 *History Note: Authority G.S. 143-215.3(a)(1); ~~143B-282~~; 143-215.84; 143-215.104AA; 143B-282;*

- 1 *Eff. March 1, 2016;*
- 2 *Amended Eff. March 1, ~~2017.~~ 2017;*
- 3 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0508 is readopted with changes as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0508 ASSESSMENT AND REMEDIATION PROCEDURES**

4 Assessment and remediation of soil contamination shall be addressed as follows:

- 5 (1) At the time that the Department determines the risk posed by the discharge or release, the
6 Department shall also determine, based on site-specific information, whether the site is "residential"
7 or "industrial/commercial." For the purposes of this Section, a site is presumed residential, but may
8 be classified as industrial/commercial if the Department determines based on site-specific
9 information that exposure to the soil contamination is limited in time due to the use of the site and
10 does not involve exposure to children. For the purposes of this Item, "site" means both the property
11 upon which the discharge or release ~~has~~ occurred and any property upon that soil has been affected
12 by the discharge or release.
- 13 (2) ~~The~~ For a discharge or release the responsible party shall submit a report to the Department assessing
14 the vertical and horizontal extent of soil contamination.
- 15 (3) For a discharge or release classified by the Department as low risk, the responsible party shall submit
16 a report demonstrating that soil contamination has been remediated to either the residential or
17 industrial/commercial maximum soil contaminant concentration established by the Department
18 pursuant to Rule .0511 of this Section, whichever is applicable.
- 19 (4) For a discharge or release classified by the Department as high or intermediate risk, the responsible
20 party shall submit a report demonstrating that soil contamination has been remediated to the lower
21 of:
- 22 (a) the residential or industrial/commercial maximum soil contaminant concentration,
23 whichever is applicable, that has been established by the Department pursuant to Rule
24 .0511 of this Section; or
- 25 (b) the "soil-to-groundwater" maximum soil contaminant concentration that has been
26 established by the Department pursuant to Rule .0511 of this Section.

27
28 *History Note: Authority G.S. 143-215.3(a)(1); ~~143B-282~~; 143-215.84; 143-215.104AA; 143B-282;*
29 *Eff. March 1, ~~2016~~. 2016;*
30 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0509 is readopted with changes as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0509 NOTIFICATION REQUIREMENTS**

4 (a) A responsible party who submits a corrective action plan that proposes natural ~~attenuation~~ attenuation, or to cleanup
5 groundwater contamination to a standard other than a standard ~~or interim standard established~~ as set forth in Rule .0202
6 of this Subchapter, or to cleanup soil other than to the standard for residential use or soil-to-groundwater contaminant
7 concentration established pursuant to this Section, whichever is lowest, shall give notice to:

- 8 (1) the local Health Director and the chief administrative officer of each political jurisdiction in which
9 the contamination occurs;
- 10 (2) all property owners and occupants within or contiguous to the area containing the contamination;
11 and
- 12 (3) all property owners and occupants within or contiguous to the area where the contamination is
13 expected to migrate.

14 ~~Such~~ The notice shall describe the nature of the plan and the reasons supporting it. Notification shall be made by
15 certified mail concurrent with the submittal of the corrective action plan. Approval of the corrective action plan by
16 the Department shall be postponed for a period of 30 days following receipt of the request so that the Department may
17 receive and consider ~~comments submitted~~ comments. The responsible party shall, within 60 days, provide the
18 Department with a copy of the notice and proof of receipt of each required ~~notice~~ notice or of refusal by the addressee
19 to accept delivery of a required notice. If notice by certified mail to occupants under this Paragraph is impractical, the
20 responsible party ~~may~~ shall give notice ~~by posting such notice in a prominent manner designed to give actual notice to~~
21 ~~the occupants as provided in G.S. 1A-1, Rule 4(j) or 4(j1)~~. If notice is made to occupants by posting, the responsible
22 party shall provide the Department with a copy of the posted notice and a description of the manner in which such
23 posted notice was given.

24 (b) A responsible party who receives a notice pursuant to Rule ~~.0507(d)~~ .0507(e) of this Section for a discharge or
25 release that has not been remediated to the groundwater standards or interim standards established in Rule .0202 of
26 this Subchapter or to the lower of the residential or soil-to-groundwater contaminant concentrations established under
27 Rule .0511 of this Section, shall, within 30 days of the receipt of such notice, provide a copy of the notice to:

- 28 (1) the local Health Director and the chief administrative officer of each political jurisdiction in which
29 the contamination occurs;
- 30 (2) all property owners and occupants within or contiguous to the area containing contamination; and
- 31 (3) all property owners and occupants within or contiguous to the area where the contamination is
32 expected to migrate.

33 Notification shall be made by certified mail. The responsible party shall, within 60 days, provide the Department with
34 proof of receipt of the copy of the ~~notice~~ notice or of refusal by the addressee to accept delivery of the copy of the
35 notice. If notice by certified mail to occupants under this Paragraph is impractical, the responsible party ~~may~~ shall give
36 notice ~~by posting a copy of the notice in a prominent manner designed to give actual notice to the occupants as~~

1 provided in G.S. 1A-1, Rule 4(j) or 4(j1). If notice is made to occupants by posting, the responsible party shall provide
2 the Department with a description of the manner in which such posted notice was given.

3

4 *History Note:* Authority *G.S. 143-215.3(a)(1); ~~143B-282~~; 143-215.104AA; 143B-282*

5 *Eff. March 1, ~~2016~~, 2016;*

6 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0510 is readopted as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0510 DEPARTMENTAL LISTING OF DISCHARGES OR RELEASES**

4 ~~To the extent feasible, the~~The Department shall maintain in each of the Department's regional offices a list of all non-
5 UST petroleum discharges or releases discovered and reported to the Department within the region.

6

7 *History Note: Authority G.S. 143-215.3(a)(1); 143B-282;*

8 *Eff. March 1, ~~2016~~. 2016;*

9 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0511 is readopted with changes as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0511 ESTABLISHING MAXIMUM SOIL CONTAMINATION CONCENTRATIONS**

4 For the purposes of risk-based assessment and remediation for non-UST petroleum releases, ~~refer to Rule .0411 of~~
5 ~~this Subchapter for~~ establishment of maximum soil contamination ~~concentrations.~~ concentrations shall be in
6 accordance with Rule .0411 of this Subchapter.

7

8 *History Note: Authority G.S. 143-215.3(a)(1); ~~143B-282~~; 143-215.84; 143-215.104AA; 143B-282;*

9 *Eff. March 1, ~~2016~~. 2016;*

10 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0512 is readopted with changes as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0512 ANALYTICAL PROCEDURES FOR SOIL SAMPLES**

4 For the purposes of risk-based assessment and remediation for non-UST petroleum releases, ~~refer to Rule .0412 of~~
5 ~~this Subchapter for analytical procedures for soil samples.~~ samples shall be in accordance with Rule .0412 of this
6 Subchapter.

7

8 *History Note: Authority G.S. 143-215.3(a)(1); ~~143B-282~~; 143-215.84; 143-215.104AA; 143B-282;*

9 *Eff. March 1, ~~2016~~, 2016;*

10 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0513 is readopted with changes as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0513 ANALYTICAL PROCEDURES FOR GROUNDWATER SAMPLES**

4 For the purposes of risk-based assessment and remediation for non-UST petroleum releases, ~~refer to Rule .0413 of~~
5 ~~this Subchapter for analytical procedures for groundwater samples.~~ samples shall be in accordance with Rule .0413 of
6 this Subchapter.

7

8 *History Note: Authority G.S. 143-215.3(a)(1); ~~143B-282~~; 143-215.84; 143-215.104AA; 143B-282;*

9 *Eff. March 1, ~~2016~~, 2016;*

10 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0514 is readopted with changes as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0514 REQUIRED LABORATORY CERTIFICATION**

4 In accordance with 15A NCAC 02H .0804, laboratories shall obtain North Carolina Division of Water Resources
5 laboratory certification for parameters that ~~shall~~ are required to be reported to the State in compliance with the State's
6 surface water, groundwater, and pretreatment rules.

7

8 *History Note: Authority G.S. 143-215.3(a)(1); ~~143B-282~~; 143-215.84; 143-215.104AA; 143B-282;*

9 *Eff. March 1, ~~2016~~, 2016;*

10 *Readopted Eff. June 1, 2019.*

1 15A NCAC 02L .0515 is readopted with changes as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0515 DISCHARGES OR RELEASES FROM OTHER SOURCES**

4 This Section shall not relieve any person responsible for assessment or cleanup of contamination from a source other
5 than a non-UST petroleum release from its obligation to assess and clean up contamination resulting from ~~such~~the
6 discharge or releases.

7

8 *History Note: Authority G.S. 143-215.3(a)(1); ~~143B-282~~; 143-215.84; 143-215.104AA; 143B-282;*

9 *Eff. March 1, ~~2016~~2016;*

10 *Readopted Eff. June 1, 2019.*



STATE OF NORTH CAROLINA
OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address:
6714 Mail Service Center
Raleigh, NC 27699-6700

Street address:
1711 New Hope Church Rd
Raleigh, NC 27609-6285

April 18, 2019

Jennifer Everett
Environmental Management Commission
Sent via email only to: Jennifer.everett@ncdenr.gov

Re: Extension of the Period of Review for Rules 15A NCAC 02L .0401-.0415 and .0501-.0515

Dear Ms. Everett:

At its meeting this morning, the Rules Review Commission extended the period of review for the above-captioned rules in accordance with G.S. 150B-21.10. They did so in response to a request from the Environmental Management Commission to extend the period of review in order to allow the agency additional time to address the requested technical changes.

Please respond to this letter in accordance with G.S. 150B-21.13.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Amber C. May
Commission Counsel

Administration
919/431-3000
fax: 919/431-3100

Rules Division
919/431-3000
fax: 919/431-3104

Judges and
Assistants
919/431-3000
fax: 919/431-3100

Clerk's Office
919/431-3000
fax: 919/431-3100

Rules Review
Commission
919/431-3000
fax: 919/431-3104

Civil Rights
Division
919/431-3036
fax: 919/431-3103

Burgos, Alexander N

Subject: FW: Request for 15A NCAC 02L .0400-.0500

From: Everett, Jennifer <jennifer.everett@ncdenr.gov>
Sent: Monday, April 8, 2019 8:59 AM
To: May, Amber Cronk <amber.may@oah.nc.gov>
Cc: Poplawski, Jeremy J <jeremy.poplawski@ncdenr.gov>
Subject: Request for 15A NCAC 02L .0400-.0500

Dear Ms. May,

The RRC is scheduled to consider approval of rules contained in 15A NCAC 02L .0400 & .0500 at its April meeting. We would like to request an extension of our review period to allow time to properly address the technical change requests received. We intend to resolve any issues and have the rules ready for consideration at the RRC's May meeting.

Let me know if you have any questions. Thank you.

Jennifer

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)-707-8614

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0401

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

This is entirely up to you, but is the Title accurate? Your "rule application" rule in .0403 appears to be your scope rule.

In (b), what is meant by "the applicable portions of Section .0100? Is this language necessary? Can you just say "Section .0100 of this Subchapter shall apply to this Section unless specifically excluded?"

In your History Note, do you still need "1995 (Reg. Sess. 1996) c. 648, s.1"? I think that you do, but want to verify.

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0401 is readopted as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0401 PURPOSE AND SCOPE**

4 (a) The purpose of this Section is to establish procedures for risk-based assessment and corrective action sufficient
5 to:

- 6 (1) protect human health and the environment;
- 7 (2) abate and control contamination of the waters of the State as deemed necessary to protect human
8 health and the environment;
- 9 (3) permit management of the State's groundwaters to protect their designated current usage and
10 potential future uses;
- 11 (4) provide for anticipated future uses of the State's groundwater;
- 12 (5) recognize the diversity of contaminants, the State's geology and the characteristics of each individual
13 site; and
- 14 (6) accomplish these goals in a cost-efficient manner to assure the best use of the limited resources
15 available to address groundwater pollution within the State.

16 (b) The applicable portions of Section .0100 ~~not specifically excluded apply to this Section of this Subchapter shall~~
17 apply to this Section unless specifically excluded.

18

19 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
20 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648,s. 1;*
21 *Recodified from 15A NCAC 02L .0115(a);*
22 *Amended Eff. December 1, ~~2005-2005~~;*
23 *Readopted Eff. May 1, 2019.*

1 15A NCAC 02L .0402 is readopted as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0402 DEFINITIONS**

4 The definitions as set out in ~~15A NCAC 02L~~ Rule .0102 of this Subchapter shall apply to this Section.

5

6 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*

7

215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;

8

Eff. December 1, ~~2005~~ 2005;

9

Readopted Eff. May 1, 2019.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0403

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

On line 6, what is meant by “the effective date of this Section”? Is “that is reported on or after the effective date of this Section” necessary? Do you mean something like “The Rules in effect at the time of the notification to the Department of the discharge or release shall be applicable”? If so (and you choose to use some variation of this language), you will also need to tell folks how they can get to past versions of Rules since they are not available on the online version of the Code.

I’m not sure that I understand what is meant by “This Section shall be applied in a manner consistent with the rules found in 15A NCAC 02N...” Is the intent here to say that no action under these Rules shall affect the technical requirements under 02N? If so, I think that it’s probably okay – I just want to verify.

In your History Note, do you still need “1995 (Reg. Sess. 1996) c. 648, s.1”?

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0403 is readopted as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0403 RULE APPLICATION**

4 This Section ~~applies~~ shall apply to any discharge or release from a "commercial underground storage tank" or a
5 "noncommercial underground storage tank," as those terms are defined in G.S. 143-215.94A, ~~which~~ that is reported on
6 or after the effective date of this Section. ~~This Section shall apply to any discharge or release from a "commercial~~
7 ~~underground storage tank" or a "noncommercial underground storage tank," as those terms are defined in G.S. 143-~~
8 ~~215.94A which is reported before the effective date of this Section as provided in 15A NCAC 02L .0416 of this~~
9 ~~Section.~~ The requirements of this Section shall apply to the owner and operator of the underground storage tank from
10 which the discharge or release occurred, a landowner seeking reimbursement from the Commercial Leaking
11 Underground Storage Tank Fund or the Noncommercial Leaking Underground Storage Tank Fund under G.S. 143-
12 215.94E, and any other person responsible for the assessment or cleanup of a discharge or release from an underground
13 storage tank, including any person who has conducted or controlled an activity ~~which~~ that results in the discharge or
14 release of petroleum or petroleum products as defined in G.S. 143-215.94A(10) to the groundwaters of the ~~State,~~ State
15 or in proximity thereto; these persons shall be collectively referred to for purposes of this Section as the "responsible
16 party." This Section shall be applied in a manner consistent with the rules found in 15A NCAC ~~2N02N~~ in order to
17 assure that the State's requirements regarding assessment and cleanup from underground storage tanks are no less
18 stringent than Federal requirements.

19

20 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
21 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*
22 *Recodified from 15A NCAC 02L .0115(b);*
23 *Amended Eff. December 1, ~~2005-2005~~;*
24 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0404

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

When would this Rule be applicable? Please make it clear within the body of the text of the Rule when this rule would apply because titles of Rules can be changed without going through the rulemaking process. Specifically, here, this appears to be getting to required initial actions following a discharge or release.

Should (a)(1) and (b)(1) track the same language (specifically you use "necessary" in (b)(1), but not here)?

Please add an "and" at the end of (a)(2).

In (b)(1), please delete "to" in "to identify" and "to report"

In (c), please change "shall be" to "is" and delete "requiring" so that it reads "... or no further action is required without additional soil remediation..."

In your History Note, do you still need "1995 (Reg. Sess. 1996) c. 648, s.1"?

Please include the September 27, 2017 temporary amendment in your History Note.

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0404 is readopted with changes as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0404 REQUIRED INITIAL ABATEMENT ACTIONS BY RESPONSIBLE PARTY**

4 (a) A responsible party for a commercial underground storage tank shall:

- 5 (1) take ~~immediate~~ action to prevent ~~anyall~~ further discharge or release of petroleum from the
6 underground storage tank; identify and mitigate ~~anyall~~ fire, ~~explosion or explosion~~, and vapor
7 ~~hazard; hazards~~; remove any free product; and comply with the requirements of ~~Rules~~ 15A NCAC
8 02N .0601 through .0604 and .0604, .0701 through .0703, .0703, and .0705 of Subchapter 02N; within
9 24 hours of discovery;
- 10 (2) incorporate the requirements of 15A NCAC 02N .0704 into the submittal required under
11 Item Subparagraph (3) of this Paragraph or the limited site assessment report required under ~~15A~~
12 ~~NCAC 02L Rule .0405~~ of this Section, whichever is applicable. ~~Such~~ The submittals shall constitute
13 compliance with the reporting requirements of 15A NCAC 02N .0704(b);
- 14 (3) submit within 90 days of the discovery of the discharge or release a soil contamination report
15 containing information sufficient to show that remaining unsaturated soil in the side walls and at the
16 base of the excavation does not contain contaminant levels ~~which that~~ exceed either the "soil-to-
17 groundwater" or the residential maximum soil contaminant concentrations established by the
18 Department pursuant to ~~15A NCAC 02L Rule .0411~~ of this Section, whichever is lower. If ~~such~~ the
19 showing is made, the discharge or release shall be classified as low risk by the
20 ~~Department;~~ Department as defined in Rules .0406 and .0407 of this Section.

21 (b) A responsible party for a noncommercial underground storage tank shall:

- 22 (1) take necessary actions to protect public health, safety, and welfare and the environment, including
23 actions to prevent all further discharge or release of petroleum from the noncommercial underground
24 storage tank; to identify and mitigate all fire, explosion, and vapor hazards; and to report the release
25 within 24 hours of discovery, in compliance with G.S. 143-215.83(a), G.S. 143-215.84(a), G.S. 143-
26 215.85(b), and G.S. 143-215.94E; and
- 27 (2) provide or otherwise make available any information required by the Department to determine the
28 site risk as described in Rules .0405, .0406, and .0407 of this Section.

29 (c) The Department shall notify the responsible party for a noncommercial underground storage tank that no cleanup,
30 no further cleanup, or no further action shall be required without requiring additional soil remediation pursuant to Rule
31 .0408 of this Section if the site is determined by the Department to be low risk. This classification shall be based on
32 information provided to the Department that:

- 33 (1) describes the source and type of the petroleum release, site-specific risk factors, and risk factors
34 present in the surrounding area as defined in Rules .0406 and .0407 of this Section;
- 35 (2) demonstrates that no remaining risk factors are present that are likely to be affected per G.S. 143-
36 215.94V(b); or

1 (3) documents that soils remaining onsite do not contain contaminant levels that exceed either the "soil-
2 to-groundwater" or the residential maximum soil contaminant concentrations established by the
3 Department pursuant to Rule .0411 of this Section, whichever is lower.

4 The Department shall reclassify the site as high risk, as defined in Rule .0406(1) of this Section, upon receipt of new
5 information related to site conditions indicating that the discharge or release from a noncommercial underground
6 storage tank poses an unacceptable risk or a potentially unacceptable risk to human health or the environment, as
7 described in Rule .0407 of this Section.

8
9 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
10 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*
11 *Recodified from 15A NCAC 02L .0115(c)(1)-(3);*
12 *Amended Eff. December 1, ~~2005-2005~~;*
13 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0405

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

For purposes of clarity, please consider deleting “or within such greater time limit approved by the Department” and moving lines 9-14 to the end of this Rule making this language regarding the extension of time its own Paragraph (this would result in a need to reformat the rest of your Rule as well, including adding (a) to line 4.) As written, it gets a bit lost as the rest of this Rule speaks to what is required of the Report. I would also suggest that you break the factors used in making this determination into a list. It would look something like the following (please note that this formatting is not correct, but I did it this way to show you what I mean):

(b) The responsible party may request an extension of the 120 day deadline as set forth in Paragraph (a) of this Rule. When considering a request from a responsible party for additional time to submit the report, the Department shall consider the following:

- (1) the extent to which the request for additional time is due to factors outside of the control of the responsible party;**
- (2) the previous history of the person submitting the report in complying with deadlines established under the Commission's rules;**
- (3) the technical complications associated with assessing the extent of contamination at the site or identifying potential receptors; and**
- (4) the necessity for action to eliminate an imminent threat to public health or the environment.**

Also, how is this request to be made? In writing? Is there any specific information that you will require?

Please note that as written, the language regarding the extension is inconsistent with the language in .0505. Was that intentional?

For purposes of consistency with .0505, please put “source area” in quotations.

In Item (3), where can this map be found? Is it available on your website?

In Item (9), what is meant by “such discussion shall be based on information known or required to be obtained under this Item”? Is this language necessary?

Amber May
Commission Counsel

Date submitted to agency: Monday, March 25, 2019

In your History Note, do you still need “1995 (Reg. Sess. 1996) c. 648, s.1”?

Please include the September 27, 2017 temporary amendment in your History Note.

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0405 is readopted with changes as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0405 REQUIREMENTS FOR LIMITED SITE ASSESSMENT**

4 If the required showing for a commercial underground storage tank cannot be made or if the Department determines
5 that a release from a noncommercial underground storage tank represents an unacceptable risk under ~~15A NCAC~~
6 ~~02L~~Rule .0404 of this Section, the responsible party shall submit within 120 days of the discovery of the discharge or
7 release, or within such other greater time limit approved by the Department, a report containing information needed
8 by the Department to classify the level of risk to human health and the environment posed by a discharge or release
9 under ~~15A NCAC 02L~~Rule .0406 of this Section. When considering a request from a responsible party for additional
10 time to submit the report, the Department shall consider the extent to which the request for additional time is due to
11 factors outside of the control of the responsible party, the previous history of the person submitting the report in
12 complying with deadlines established under the Commission's rules, the technical complications associated with
13 assessing the extent of contamination at the site or identifying potential receptors, and the necessity for action to
14 eliminate an imminent threat to public health or the environment. ~~Such~~The report shall ~~include, at a minimum:~~include:

- 15 (1) a location map, based on a USGS topographic map, showing the radius of 1500 feet from the source
16 area of a confirmed release or discharge and depicting all water supply ~~wells and wells,~~ surface
17 ~~waters~~waters, and designated wellhead protection areas as defined in 42 U.S.C. 300h-7(e) within
18 the 1500-foot radius. 42 U.S.C. 300h-7(e), is incorporated by reference including subsequent
19 amendments and editions. Copies may be obtained at no cost from the U.S. Government Bookstore's
20 website at [chap6A-subchapXII-partC-sec300h-7.htm](http://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/html/USCODE-2010-title42-</u>
21 <u><a href=). The material is available for inspection at the
22 Department of Environmental Quality, UST Section, 217 West Jones Street, Raleigh, NC 27603.
23 For purposes of this Section, source area means the point of release or discharge from the
24 underground storage tank system;
- 25 (2) a determination of whether the source area of the discharge or release is within a designated wellhead
26 protection area as defined in 42 U.S.C. 300h-7(e);
- 27 (3) if the discharge or release is in the Coastal Plain physiographic region as designated on a map
28 entitled "Geology of North Carolina" published by the Department in 1985, a determination of
29 whether the source area of the discharge or release is located in an area in which there is recharge
30 to an unconfined or semi-confined deeper aquifer ~~which~~that is being used or may be used as a source
31 of drinking water;
- 32 (4) a determination of whether vapors from the discharge or release pose a threat of explosion due to
33 the accumulation of vapors in a confined space or pose any other serious threat to public health,
34 public ~~safety~~safety, or the environment;
- 35 (5) scaled site ~~map(s)~~maps showing the location of the following ~~which~~that are on or adjacent to the
36 property where the source is located: ~~site boundaries, roads, buildings, basements, floor and storm~~

1 ~~drains, subsurface utilities, septic tanks and leach fields, underground storage tank systems,~~
2 ~~monitoring wells, borings and the sampling points;~~

3 (a) site boundaries;

4 (b) roads;

5 (c) buildings;

6 (d) basements;

7 (e) floor and storm drains;

8 (f) subsurface utilities;

9 (g) septic tanks and leach fields;

10 (h) underground and aboveground storage tank systems;

11 (i) monitoring wells;

12 (j) water supply wells;

13 (k) surface water bodies and other drainage features;

14 (l) borings; and

15 ~~(k)~~(m) the sampling points;

16 (6) the results from a limited site assessment ~~which~~that shall include:

17 (a) the analytical results from soil samples collected during the construction of a monitoring
18 well installed in the source area of each confirmed discharge or release from a
19 noncommercial or commercial underground storage tank and either the analytical results
20 of a groundwater sample collected from the well or, if free product is present in the well,
21 the amount of free product in the well. The soil samples shall be collected every five feet
22 in the unsaturated zone unless a water table is encountered at or greater than a depth of 25
23 feet from land surface in which case soil samples shall be collected every 10 feet in the
24 unsaturated zone. The soil samples shall be collected from suspected worst-case locations
25 exhibiting visible contamination or elevated levels of volatile organic compounds in the
26 borehole;

27 (b) if any constituent in the groundwater sample from the source area monitoring well installed
28 in accordance with Sub-item (a) of this Item, for a site meeting the high risk classification
29 in ~~15A NCAC 02L .0406(1), Rule .0406(1) of this Section,~~ exceeds the standards or interim
30 standards established in ~~15A NCAC 02L Rule .0202 of this Subchapter~~ by a factor of 10
31 and is a discharge or release from a commercial underground storage tank, the analytical
32 results from a groundwater sample collected from each of three additional monitoring wells
33 or, if free product is present in any of the wells, the amount of free product in such well.
34 The three additional monitoring wells shall be installed as follows: ~~as best as can be~~
35 ~~determined,~~ one upgradient of the source of contamination and two downgradient of the
36 source of contamination. The monitoring wells installed upgradient and downgradient of

1 the source of contamination ~~must~~shall be located such that groundwater flow direction can
2 be determined; and

3 (c) potentiometric data from all required wells;

4 (7) the availability of public water supplies and the identification of properties served by the public
5 water supplies within 1500 feet of the source area of a confirmed discharge or release;

6 (8) the land use, including zoning if applicable, within 1500 feet of the source area of a confirmed
7 discharge or release;

8 (9) a discussion of ~~site-specific~~site-specific conditions or possible actions ~~which~~that could result in
9 lowering the risk classification assigned to the release. ~~Such~~The discussion shall be based on
10 information known or required to be obtained under this Paragraph; and

11 (10) names and current addresses of all owners and operators of the underground storage tank systems
12 for which a discharge or release is confirmed, the ~~owner(s)~~owners of the land upon which such
13 systems are located, and all potentially affected real property owners. ~~When considering a request~~
14 ~~from a responsible party for additional time to submit the report, the Division shall consider the~~
15 ~~extent to which the request for additional time is due to factors outside of the control of the~~
16 ~~responsible party, the previous history of the person submitting the report in complying with~~
17 ~~deadlines established under the Commission's rules, the technical complications associated with~~
18 ~~assessing the extent of contamination at the site or identifying potential receptors, and the necessity~~
19 ~~for immediate action to eliminate an imminent threat to public health or the environment.~~

20
21 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
22 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*
23 *Recodified from 15A NCAC 02L .0115(c)(4);*
24 *Amended Eff. December 1, 2005-2005;*
25 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0406

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

I'm not really sure that I understand the cross-reference to 143-215.94(2)a. Is the intent here that this Rule only apply to farm or residential underground storage tanks if 1,100 or less? If so, please consider saying that rather than just providing the cross-reference.

If that is not what is meant, in (1)(b), (c), and (d), I don't think it's necessary to say "as defined by G.S. 143-215.94A(2)a.,7 each time. Would all of the definitions set forth in 143-215.94A(2) apply? If so, you might want to add that cross-reference to your definitions rule and just delete the references here. Alternatively, if you only need commercial underground storage tanks and noncommercial underground storage tanks, you may want to go ahead and just put these into your definitions rule with the appropriate cross-reference.

In your History Note, do you still need "1995 (Reg. Sess. 1996) c. 648, s.1"?

Please include the September 27, 2017 temporary amendment in your History Note.

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0406 is readopted as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0406 DISCHARGE OR RELEASE CLASSIFICATIONS**

4 The Department shall classify the risk of each known discharge or release as high, ~~intermediate~~intermediate, or low
5 risk unless the discharge or release has been classified under ~~15A NCAC 02L .0404(3)~~Rule .0404(a)(3) or (c) of this
6 Section. For purposes of this Section:

7 (1) "High risk" means that:

8 (a) a water supply well, including one used for non-drinking purposes, has been contaminated
9 by ~~the~~a release or discharge;

10 (b) a water supply well used for drinking water is located within 1000 feet of the source area
11 of a confirmed discharge or ~~release~~release from a commercial underground storage tank
12 or a noncommercial underground storage tank storing motor fuel as defined by G.S. 143-
13 215.94A(2)a., (7);

14 (c) a water supply well not used for drinking water is located within 250 feet of the source area
15 of a confirmed discharge or ~~release~~release from a commercial underground storage tank
16 or a noncommercial underground storage tank storing motor fuel as defined by G.S. 143-
17 215.94A(2)a., (7);

18 (d) the groundwater within 500 feet of the source area of a confirmed discharge or release from
19 a commercial underground storage tank or a noncommercial underground storage tank
20 storing motor fuel as defined by G.S. 143-215.94A(2)a., (7) has the potential for future use
21 in that there is no source of water supply other than the groundwater;

22 (e) a water supply well, including one used for non-drinking purposes, is located within 150
23 feet of the source area of a confirmed discharge or release from a noncommercial
24 underground storage tank storing heating oil for consumptive use on the premises;

25 (e)(f) the vapors from the discharge or release pose a serious threat of explosion due to
26 accumulation of the vapors in a confined space; or

27 (f)(g) the discharge or release poses an imminent danger to public health, public safety, or the
28 environment.

29 (2) "Intermediate risk" means that:

30 (a) surface water is located within 500 feet of the source area of a confirmed discharge or
31 release from a commercial underground storage tank and the maximum groundwater
32 contaminant concentration exceeds the applicable surface water quality standards and
33 criteria found in 15A NCAC 02B .0200 by a factor of 10;

34 (b) in the Coastal Plain physiographic region as designated on a map entitled "Geology of
35 North Carolina" published by the Department in 1985, the source area of a confirmed
36 discharge or release from a commercial underground storage tank is located in an area in

1 which there is recharge to an unconfined or semi-confined deeper aquifer ~~which~~that the
2 Department determines is being used or may be used as a source of drinking water;

3 (c) the source area of a confirmed discharge or release from a commercial underground storage
4 tank is within a designated wellhead protection area, as defined in 42 U.S.C. 300h-7(e);

5 (d) the levels of groundwater contamination associated with a confirmed discharge or release
6 from a commercial underground storage tank for any contaminant except ethylene
7 dibromide, ~~benzene~~benzene, and alkane and aromatic carbon fraction classes exceed 50
8 percent of the solubility of the contaminant at 25 degrees Celsius or 1,000 times the
9 groundwater standard or interim standard established in ~~15A NCAC 02L .0202~~Rule .0202
10 of this Subchapter, whichever is lower; or

11 (e) the levels of groundwater contamination associated with a confirmed discharge or release
12 from a commercial underground storage tank for ethylene dibromide and benzene exceed
13 1,000 times the federal drinking water standard set out in 40 CFR 141. 40 CFR 141 is
14 incorporated by reference including subsequent amendments and editions. Copies may be
15 obtained at no cost from the U.S. Government Bookstore's website at
16 <https://www.gpo.gov/fdsys/pkg/CFR-2015-title40-vol23/pdf/CFR-2015-title40-vol23->
17 part141.pdf. The material is available for inspection at the Department of Environmental
18 Quality, UST Section, 217 West Jones Street, Raleigh, NC 27603.

19 (3) "Low risk" means that:

20 (a) the risk posed does not fall within the ~~high or intermediate risk categories~~high risk
21 category for any underground storage tank, or within the intermediate risk category for a
22 commercial underground storage tank; or

23 (b) based on review of site-specific information, limited ~~assessment~~assessment, or interim
24 corrective actions, ~~the Department determines that~~ the discharge or release poses no
25 significant risk to human health or the environment.

26 If the criteria for more than one risk category applies, the discharge or release shall be classified at the highest risk
27 level identified in ~~15A NCAC 02L~~Rule .0407 of this Section.

28
29 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
30 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*

31 *Recodified from 15A NCAC 02L .0115(d);*

32 *Amended Eff. December 1, 2005-2005;*

33 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0407

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

*Please, delete "have the continuing obligation to." This language appears to be superfluous given the rest of the sentence that requires they notify you **all** of any changes.*

In (a), how it is determined whether a change "should be known"? I assume that your regulated public is familiar with what they should know?

Please consider making lines 8-12 their own Paragraph.

In (b), line 24, please change "shall not" to "does not"

In (b), line 25, by "may", do you mean "shall" in "may approve"?

In (c), line 16, page 2, please change "will not" to "does not" in "will not increase"

In (d), line 18, please change "will be" to "is" in "will be required"

In (d)(2), when would public notification be required? Is there a cross-reference available? Is that the notice set forth in .0409?

In (d)(3), what are the required land use restrictions? Is there a cross-reference available?

In your History Note, do you still need "1995 (Reg. Sess. 1996) c. 648, s.1"?

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0407 is readopted with changes as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0407 RECLASSIFICATION OF RISK LEVELS**

4 (a) ~~[It shall be a continuing obligation that each]~~Each responsible party shall ~~have the continuing obligation to~~ notify
5 the Department of any changes that may affect the level of risk assigned to a discharge or release by the Department
6 if the change is known or should be known by the responsible party, including changes in zoning of real property, use
7 of real property, or the use of groundwater that has been contaminated or is expected to be contaminated by the
8 discharge or release. The Department ~~may~~shall reclassify the risk posed by a release if warranted by further
9 information concerning the potential exposure of receptors to the discharge or release or upon receipt of new
10 information concerning changed conditions at the site. After initial classification of the discharge or release, the
11 Department may require limited assessment, interim corrective action, or other actions ~~which~~that the Department
12 believes will result in a lower risk classification. ~~It shall be a continuing obligation of each responsible party to notify~~
13 ~~the Department of any changes that might affect the level of risk assigned to a discharge or release by the Department~~
14 ~~if the change is known or should be known by the responsible party. Such changes shall include, but shall not be~~
15 ~~limited to, changes in zoning of real property, use of real property or the use of groundwater that has been contaminated~~
16 ~~or is expected to be contaminated by the discharge or release, if such change could cause the Department to reclassify~~
17 ~~the risk.~~

18 (b) If the risk posed by a discharge or release is determined by the Department to be high risk, the responsible party
19 shall comply with the assessment and cleanup requirements of Rule .0106(c), ~~(g)~~(g), and (h) of this Subchapter and
20 15A NCAC 02N .0706 and .0707. The goal of ~~any~~a required corrective action for groundwater contamination shall be
21 restoration to the level of the groundwater standards set forth in ~~15A NCAC 02L .0202,~~Rule .0202 of this Subchapter,
22 or as closely thereto as is economically and technologically feasible. In ~~any~~a corrective action plan submitted pursuant
23 to this Paragraph, natural attenuation shall be used to the maximum extent ~~possible,~~possible, ~~when the benefits of its~~
24 use shall not increase the risk to the environment and human health. If the responsible party demonstrates that natural
25 attenuation prevents the further migration of the plume, the Department may approve a groundwater monitoring plan.

26 (c) If the risk posed by a discharge or release is determined by the Department to be an intermediate risk, the
27 responsible party shall comply with the assessment requirements of ~~15A NCAC 02L~~Rule .0106(c) and (g) ~~of this~~
28 Subchapter and 15A NCAC 02N .0706. As part of the comprehensive site assessment, the responsible party shall
29 evaluate, based on ~~site specific~~site-specific conditions, whether the release poses a significant risk to human health or
30 the environment. If the Department determines, based on the site-specific conditions, that the discharge or release
31 does not pose a significant threat to human health or the environment, the site shall be reclassified as a low risk site.
32 If the site is not reclassified, the responsible party shall, at the direction of the Department, submit a groundwater
33 monitoring plan or a corrective action plan, or a combination thereof, meeting the cleanup standards of this Paragraph
34 and containing the information required in ~~15A NCAC 02L~~Rule .0106(h) ~~of this Subchapter~~ and 15A NCAC 02N
35 .0707. Discharges or releases ~~which~~that are classified as intermediate risk shall be remediated, at a minimum, to a
36 cleanup level of 50 percent of the solubility of the contaminant at 25 degrees Celsius or 1,000 times the groundwater
37 standard or interim standard established in ~~15A NCAC 02L .0202,~~Rule .0202 of this Subchapter, whichever is

1 ~~lower~~ lower, for any groundwater contaminant except ethylene dibromide, benzene and alkane and aromatic carbon
2 fraction classes. Ethylene dibromide and benzene shall be remediated to a cleanup level of 1,000 times the federal
3 drinking water standard ~~set out in 40 CFR 141~~ as referenced in 15A NCAC 18C .1518 incorporated by reference
4 including subsequent amendments and editions, and available free of charge at <http://reports.oah.state.nc.us/ncac/title>
5 15a - environmental quality/chapter 18 - environmental health/subchapter c/15a ncac 18c .1518.pdf. Additionally, if
6 a corrective action plan or groundwater monitoring plan is required under this Paragraph, the responsible party shall
7 demonstrate that the groundwater cleanup levels are sufficient to prevent a violation of:

- 8 (1) the rules contained in 15A NCAC 02B;
- 9 (2) the standards contained in ~~15A NCAC 02L Rule .0202 of this Subchapter~~ in a deep aquifer as
10 described in ~~15A NCAC 02L Rule .0406(2)(b) of this Section~~; and
- 11 (3) the standards contained in ~~15A NCAC 02L Rule .0202 of this Subchapter~~ at a location no closer than
12 one year time of travel upgradient of a well within a designated wellhead protection area, based on
13 travel time and the natural attenuation capacity of the subsurface materials or on a physical barrier
14 to groundwater migration that exists or will be installed by the person making the request.

15 In any corrective action plan submitted pursuant to this Paragraph, natural attenuation shall be used to the maximum
16 extent ~~possible~~ possible, if the benefits of its use will not increase the risk to the environment and human health.

17 (d) If the risk posed by a discharge or release is determined ~~by the Department~~ to be a low risk, the Department shall
18 notify the responsible party that no cleanup, no further ~~cleanup~~ cleanup, or no further action will be required by the
19 Department unless the Department later determines that the discharge or release poses an unacceptable risk or a
20 potentially unacceptable risk to human health or the environment. No notification ~~will~~ shall be issued pursuant to this
21 Paragraph, however, until the responsible party ~~has completed soil remediation pursuant to 15A NCAC 02L .0408 of~~
22 ~~this Section except as provided in 15A NCAC 02L .0416 of this Section or as closely thereto as economically or~~
23 ~~technologically feasible~~ has:

- 24 (1) completed soil remediation pursuant to Rule .0408 of this Section or as closely thereto as
25 economically or technologically feasible;
- 26 (2) submitted proof of public notification, if required; and
- 27 (3) recorded all required land-use restrictions.

28 ~~The issuance by the Department of a notification under this Paragraph shall not affect any private right of action by~~
29 ~~any party which may be affected by the contamination.~~

30
31 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
32 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*
33 *Recodified from 15A NCAC 02L .0115(e)-(h);*
34 *Amended Eff. December 1, 2005-2005;*
35 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0408

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

In your History Note, do you still need "1995 (Reg. Sess. 1996) c. 648, s.1"?

Please include the September 27, 2017 temporary amendment in your History Note.

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0408 is readopted as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0408 ASSESSMENT AND REMEDIATION PROCEDURES**

4 Assessment and remediation of soil contamination shall be addressed as follows:

- 5 (1) At the time that the Department determines the risk posed by the discharge or release, the
6 Department shall also determine, based on site-specific information, whether the site is "residential"
7 or "industrial/commercial." For the purposes of this Section, a site is presumed residential, but may
8 be classified as industrial/commercial if the Department determines based on site-specific
9 information that exposure to the soil contamination is limited in time due to the use of the site and
10 does not involve exposure to children. For the purposes of this Paragraph, "site" means both the
11 property upon which the discharge or release ~~has~~ occurred and any property upon which soil has
12 been affected by the discharge or release.
- 13 (2) ~~The~~ For a discharge or release from a commercial underground storage tank, or for a discharge or
14 release from a noncommercial underground storage tank classified by the Department as high risk,
15 the responsible party shall submit a report to the Department assessing the vertical and horizontal
16 extent of soil ~~contamination~~ contamination in excess of the lower of:
17 (a) the residential or industrial/commercial maximum soil contaminant concentration,
18 whichever is applicable, that has been established by the Department pursuant to Rule
19 .0411 of this Section; or
20 (b) the "soil-to-groundwater" maximum soil contaminant concentration that has been
21 established by the Department pursuant to Rule .0411 of this Section.
- 22 (3) For a discharge or release from a commercial underground storage tank classified by the Department
23 as low risk, the responsible party shall submit a report demonstrating that soil contamination has
24 been remediated to either the residential or industrial/commercial maximum soil contaminant
25 concentration established by the Department pursuant to ~~15A NCAC 02L~~ Rule .0411 of this Section,
26 whichever is applicable.
- 27 (4) For a discharge or release classified by the Department as high or intermediate risk, the responsible
28 party shall submit a report demonstrating that soil contamination has been remediated to the lower
29 of:
30 (a) the residential or industrial/commercial maximum soil contaminant concentration,
31 whichever is applicable, that has been established by the Department pursuant to ~~15A~~
32 ~~NCAC 02L~~ Rule .0411 of this Section; or
33 (b) the "soil-to-groundwater" maximum soil contaminant concentration that has been
34 established by the Department pursuant to ~~15A NCAC 02L~~ Rule .0411 of this Section.

35
36 *History Note:* Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-
37 215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;

1 *Recodified from 15A NCAC 02L .0115(i);*
2 *Amended Eff. December 1, ~~2005-2005~~;*
3 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0409

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

In (a), what is meant by "interim standard"? Do you mean "interim maximum allowable concentration"? Do you need "or interim standard" or can you delete "or interim standard"? Wouldn't these already be included by saying "standard as set forth in Rule .0202"? It appears to be superfluous (and initially caused me some confusion.)

On line 20, do you mean "may receive and consider comments"? I don't see where comments can be submitted to you all otherwise.

In your History Note, do you still need "1995 (Reg. Sess. 1996) c. 648, s.1"?

Please include the September 27, 2017 temporary amendment in your History Note.

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0409 is readopted as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0409 NOTIFICATION REQUIREMENTS**

4 (a) A responsible party who submits a corrective action plan ~~which that~~ proposes natural ~~attenuation or~~attenuation, to
5 cleanup groundwater contamination to a standard other than a standard or interim standard established in ~~15A NCAC~~
6 ~~02L .0202, Rule .0202 of this Subchapter,~~ or to cleanup soil other than to the standard for residential use or soil-to-
7 groundwater contaminant concentration established pursuant to this Section, whichever is lowest, shall give notice to:
8 ~~the local Health Director and the chief administrative officer of each political jurisdiction in which the contamination~~
9 ~~occurs; all property owners and occupants within or contiguous to the area containing the contamination; and all~~
10 ~~property owners and occupants within or contiguous to the area where the contamination is expected to migrate.~~

11 (1) the local Health Director and the chief administrative officer of each political jurisdiction in which
12 the contamination occurs;

13 (2) all property owners and occupants within or contiguous to the area containing the contamination;
14 and

15 (3) all property owners and occupants within or contiguous to the area where the contamination is
16 expected to migrate.

17 ~~Such~~The notice shall describe the nature of the plan and the reasons supporting it. Notification shall be made by
18 certified mail concurrent with the submittal of the corrective action plan. Approval of the corrective action plan by
19 the Department shall be postponed for a period of ~~30~~60 days following receipt of the request so that the Department
20 may consider ~~comments submitted.~~comments. The responsible party shall, within ~~a time frame determined by the~~
21 ~~Department to be sufficient,~~30 days, provide the Department with a copy of the notice and proof of receipt of each
22 required ~~notice,~~notice or of refusal by the addressee to accept delivery of a required notice. If notice by certified mail
23 to occupants under this Paragraph is impractical, the responsible party ~~may~~shall give notice ~~by posting such notice~~
24 ~~prominently in a manner designed to give actual notice to the occupants as provided in G.S. 1A-1, Rule 4(j) or 4(j1).~~
25 If notice is made to occupants by posting, the responsible party shall provide the Department with a copy of the posted
26 notice and a description of the manner in which such posted notice was given.

27 (b) A responsible party who receives a notice from the Department pursuant to ~~15A NCAC 02L Rule .0404(c) or~~
28 ~~.0407(d) of this Section for a discharge or release which that~~ has not been remediated to the groundwater standards or
29 interim standards established in Rule .0202 of this Subchapter or to the lower of the residential or soil-to-groundwater
30 contaminant concentrations established under ~~15A NCAC 02L Rule .0411 of this Section,~~ shall, within 30 days of the
31 receipt of such notice, provide a copy of the notice to: ~~the local Health Director and the chief administrative officer of~~
32 ~~each political jurisdiction in which the contamination occurs; all property owners and occupants within or contiguous~~
33 ~~to the area containing contamination; and all property owners and occupants within or contiguous to the area where~~
34 ~~the contamination is expected to migrate.~~

35 (1) the local Health Director and the chief administrative officer of each political jurisdiction in which
36 the contamination occurs;

- 1 (2) all property owners and occupants within or contiguous to the area containing the contamination;
2 and
3 (3) all property owners and occupants within or contiguous to the area where the contamination is
4 expected to migrate.

5 Notification shall be made by certified mail. The responsible party shall, within ~~a time frame determined by the~~
6 ~~Department,~~ 60 days of receipt of the original notice from the Department, provide the Department with proof of
7 receipt of the copy of the ~~notice,~~ notice or of refusal by the addressee to accept delivery of the copy of the notice. If
8 notice by certified mail to occupants under this Paragraph is impractical, the responsible party ~~may~~ shall give notice
9 ~~by posting such notice prominently in a manner designed to give actual notice to the occupants as provided in G.S.~~
10 1A-1, Rule 4(j) or 4(j1). If notice is made to occupants by posting, the responsible party shall provide the Department
11 with a description of the manner in which ~~such~~ the posted notice was given.

12
13 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
14 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*
15 *Recodified from 15A NCAC 02L .0115(j) and (k);*
16 *Amended Eff. December 1, 2005-2005;*
17 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0410

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

Is the intent of this Rule to provide the public with information or to provide a directive to the Department? I think it's the former. As such, please consider the following:

To the extent feasible, the ~~The~~ Department shall maintain in each of the Department's regional offices ~~a~~ **A** list of all petroleum underground storage tank discharges or releases discovered and reported to the Department within the region on or after the effective date of this Section and all petroleum underground storage tank discharges or releases for which notification was issued under ~~15A NCAC 02L~~ **Rule .0407(d)** of this Section by the Department on or after the effective date of this ~~Section.~~ **Section are available in each of the Department's regional offices.**

In your History Note, do you still need "1995 (Reg. Sess. 1996) c. 648, s.1"?

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0410 is readopted as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0410 DEPARTMENTAL LISTING OF DISCHARGES OR RELEASES**

4 ~~To the extent feasible, the~~The Department shall maintain in each of the Department's regional offices a list of all
5 petroleum underground storage tank discharges or releases discovered and reported to the Department within the
6 region on or after the effective date of this Section and all petroleum underground storage tank discharges or releases
7 for which notification was issued under ~~15A NCAC 02L~~Rule .0407(d) of this Section by the Department on or after
8 the effective date of this Section.

9

10 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
11 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648,s. 1;*

12 *Recodified from 15A NCAC 02L .0115(l);*

13 *Amended Eff. December 1, ~~2005-2005~~;*

14 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0411

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

Where can the publication and revisions be found? Are they available somewhere on your website?

ON line 6, please change "industrial/commercial" to "industrial and commercial" or "industrial or commercial", whichever is intended.

On line 6, please add a comma after "industrial/commercial (especially if you make the above change)

Are the referenced EPA standards incorporated by reference in accordance with 150B-21.6 elsewhere in your rules? I see some of the required information here, but not all of it in every instance. Please note that 150B-21.6 requires language regarding whether the incorporate includes subsequent amendments and editions, where it can be found, and the cost. The incorporation language only needs to happen once, we don't need it each time material is referenced.

In (1)(d)(v), (2)(d)(v), (3)(a)(ii)(E), and (3)(b)(ii)(D), please delete or define "appropriate"

In your History Note, do you still need "1995 (Reg. Sess. 1996) c. 648, s.1"?

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0411 is readopted as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0411 ESTABLISHING MAXIMUM SOIL CONTAMINATION CONCENTRATIONS**

4 The Department shall ~~publish,publish~~ and annually ~~revise,revise~~ maximum soil contaminant concentrations to be used
5 as soil cleanup levels for contamination from petroleum underground storage tank systems. The Department shall
6 establish maximum soil contaminant concentrations for residential, industrial/commercial and soil-to-groundwater
7 exposures as follows:

- 8 (1) The following equations and references shall be used in establishing residential maximum soil
9 contaminant concentrations. Equation 1 shall be used for each contaminant with an EPA
10 carcinogenic classification of A, B1, B2, C, D or E. Equation 2 shall be used for each contaminant
11 with an EPA carcinogenic classification of A, B1, B2 or C. The maximum soil contaminant
12 concentration shall be the lower of the concentrations derived from Equations 1 and 2.

- 13 (a) Equation 1: Non-cancer Risk-based Residential Ingestion Concentration

14 Soil mg/kg = $[0.2 \times \text{oral chronic reference dose} \times \text{body weight, age 1 to 6} \times \text{averaging time}$
15 $\text{noncarcinogens}] / [\text{exposure frequency} \times \text{exposure duration, age 1 to 6} \times (\text{soil ingestion}$
16 $\text{rate, age 1 to 6} / 10^6 \text{ mg/kg})]$.

- 17 (b) Equation 2: Cancer Risk-based Residential Ingestion Concentration

18 Soil mg/kg = $[\text{target cancer risk of } 10^{-6} \times \text{averaging time carcinogens}] / [\text{exposure frequency}$
19 $\times (\text{soil ingestion factor, age adjusted} / 10^6 \text{ mg/kg}) \times \text{oral cancer slope factor}]$. The age
20 adjusted soil ingestion factor shall be calculated by: $[(\text{exposure duration, age 1 to 6} \times \text{soil}$
21 $\text{ingestion rate, age 1 to 6}) / (\text{body weight, age 1 to 6})] + [(\text{exposure duration, total -}$
22 $\text{exposure duration, age 1 to 6}) \times \text{soil ingestion, adult}] / (\text{body weight, adult})]$.

- 23 (c) The exposure factors selected in calculating the residential maximum soil contaminant
24 concentrations shall be within the recommended ranges specified in the following
25 references or the most recent version of these references:

26 (i) EPA, ~~1990-2011~~. Exposure Factors Handbook;

27 (ii) EPA, 1991. Risk Assessment Guidance for Superfund: Volume I Human Health
28 Evaluation Manual (Part B, Development of Risk Based Preliminary Remediation
29 Goals);

30 (iii) ~~EPA Region III. Risk based Concentration Tables (RBC Tables). Office of~~
31 ~~RCRA, Technical and Program Support Branch. Available at:~~
32 ~~<http://www.epa.gov/reg3hwmd/index.html>; EPA. Regional Screening Level~~
33 ~~Generic Tables (RSL) and User's Guide. Available at~~
34 ~~<https://www.epa.gov/risk/regional-screening-levels-rsls>; and~~

35 (iv) EPA, 1995. ~~Supplemental Guidance to RAGS: Region 4 Bulletins Human Health~~
36 ~~Risk Assessment, 2018. Region 4 Human Health Risk Assessment Supplemental~~
37 ~~Guidance, including future amendments.~~

1 (d) The following references or the most recent version of these references, in order of
2 preference, shall be used to obtain oral chronic reference doses and oral cancer slope
3 factors:

- 4 (i) EPA. Integrated Risk Information System (IRIS) Computer Database;
- 5 (ii) EPA. Health Effects Assessment Summary Tables (HEAST);
- 6 (iii) ~~EPA Region III. Risk based Concentration Tables (RBC Tables). Office of~~
7 ~~RCRA, Technical and Program Support Branch. Available at:~~
8 ~~<http://www.epa.gov/reg3hwmd/index.html>;~~ EPA. Regional Screening Level
9 Generic Tables (RSL) and User's Guide. Available at
10 <https://www.epa.gov/risk/regional-screening-levels-rsls>;
- 11 (iv) ~~EPA, 1995. Supplemental Guidance to RAGS: Region 4 Bulletins Human Health~~
12 ~~Risk Assessment, 2018. Region 4 Human Health Risk Assessment Supplemental~~
13 ~~Guidance, including future amendments; and~~
- 14 (v) Other appropriate, published health risk assessment data, and scientifically valid
15 peer-reviewed published toxicological data.

16 (2) The following equations and references shall be used in establishing industrial/commercial
17 maximum soil contaminant concentrations. Equation 1 shall be used for each contaminant with an
18 EPA carcinogenic classification of A, B1, B2, C, D or E. Equation 2 shall be used for each
19 contaminant with an EPA carcinogenic classification of A, B1, B2 or C. The maximum soil
20 contaminant concentration shall be the lower of the concentrations derived from Equations 1 and 2.

21 (a) Equation 1: Non-cancer Risk-based Industrial/Commercial Ingestion Concentration
22 Soil mg/kg = $[0.2 \times \text{oral chronic reference dose} \times \text{body weight, adult} \times \text{averaging time}$
23 $\text{noncarcinogens}] / [\text{exposure frequency} \times \text{exposure duration, adult} \times (\text{soil ingestion rate,}$
24 $\text{adult} / 10^6 \text{ mg/kg}) \times \text{fraction of contaminated soil ingested}]$.

25 (b) Equation 2: Cancer Risk-based Industrial/Commercial Ingestion Concentration
26 Soil mg/kg = $[\text{target cancer risk of } 10^{-6} \times \text{body weight, adult} \times \text{averaging time carcinogens}]$
27 $/ [\text{exposure frequency} \times \text{exposure duration, adult} \times (\text{soil ingestion rate, adult} / 10^6 \text{ mg/kg})$
28 $\times \text{fraction of contaminated soil ingested} \times \text{oral cancer slope factor}]$.

29 (c) The exposure factors selected in calculating the industrial/commercial maximum soil
30 contaminant concentrations shall be within the recommended ranges specified in the
31 following references or the most recent version of these references:

- 32 (i) EPA, ~~1990-2011~~. Exposure Factors Handbook;
- 33 (ii) EPA, 1991. Risk Assessment Guidance for Superfund: Volume I Human Health
34 Evaluation Manual (Part B, Development of Risk Based Preliminary Remediation
35 Goals);
- 36 (iii) ~~EPA Region III. Risk based Concentration Tables (RBC Tables). Office of~~
37 ~~RCRA, Technical and Program Support Branch. Available at:~~

- 1 <http://www.epa.gov/reg3hwmd/index.html>;EPA. Regional Screening Level
2 Generic Tables (RSL) and User's Guide. Available at
3 <https://www.epa.gov/risk/regional-screening-levels-rsls>; and
- 4 (iv) ~~EPA, 1995. Supplemental Guidance to RAGS: Region 4 Bulletins Human Health~~
5 ~~Risk Assessment,2018. Region 4 Human Health Risk Assessment Supplemental~~
6 ~~Guidance, including future amendments.~~
- 7 (d) The following references or the most recent version of these references, in order of
8 preference, shall be used to obtain oral chronic reference doses and oral cancer slope
9 factors:
- 10 (i) EPA. Integrated Risk Information System (IRIS) Computer Database;
11 (ii) EPA. Health Effects Assessment Summary Tables (HEAST);
12 (iii) ~~EPA Region III. Risk based Concentration Tables (RBC Tables). Office of~~
13 ~~RCRA, Technical and Program Support Branch. Available at:~~
14 ~~<http://www.epa.gov/reg3hwmd/index.html>;EPA. Regional Screening Level~~
15 ~~Generic Tables (RSL) and User's Guide. Available at~~
16 ~~<https://www.epa.gov/risk/regional-screening-levels-rsls>;~~
- 17 (iv) ~~EPA, 1995. Supplemental Guidance to RAGS: Region 4 Bulletins Human Health~~
18 ~~Risk Assessment,2018. Region 4 Human Health Risk Assessment Supplemental~~
19 ~~Guidance, including future amendments; and~~
- 20 (v) Other appropriate, published health risk assessment data, and scientifically valid
21 peer-reviewed published toxicological data.
- 22 (3) The following equations and references shall be used in establishing the soil-to-groundwater
23 maximum contaminant concentrations:
- 24 (a) Organic Constituents:
25 Soil mg/kg = groundwater standard or interim standard x [(0.02 x soil organic carbon-water
26 partition coefficient) + 4 + (1.733 x 41 x Henry's Law Constant (atm.-m³/mole))].
- 27 (i) If no groundwater standard or interim standard has been established under Rule
28 .0202 of this Subchapter, the practical quantitation limit shall be used in lieu of a
29 standard to calculate the soil-to-groundwater maximum contaminant
30 concentrations.
- 31 (ii) The following references or the most recent version of these references, in order
32 of preference, shall be used to obtain soil organic carbon-water partition
33 coefficients and Henry's Law Constants:
- 34 (A) ~~EPA, 1996. Soil Screening Guidance: Technical Background Document.~~
35 ~~(EPA/540/R95/128);EPA. Superfund Chemical Data Matrix (SCDM),~~
36 ~~available at [https://www.epa.gov/superfund/superfund-chemical-data-](https://www.epa.gov/superfund/superfund-chemical-data-matrix-scdm)~~
37 ~~[matrix-scdm](https://www.epa.gov/superfund/superfund-chemical-data-matrix-scdm). SCDM is referenced as an original source for the EPA.~~

1 1996, Soil Screening Guidance: Technical Background Document.
2 (EPA/540/R95/128) and the 2002, Supplemental Guidance for
3 Developing Soil Screening Levels for Superfund Sites (EPA, OSWER
4 9355.4-24), and users are instructed in Appendix C of the 2002,
5 Supplemental Guidance for Developing Soil Screening Levels for
6 Superfund Sites, to obtain the most recent values from the referenced
7 sources:

8 (B) ~~EPA, 1986. Superfund Public Health Evaluation Manual. Office of~~
9 ~~Emergency and Remedial Response (EPA/540/1-86/060);~~ 1991. Risk
10 Assessment Guidance for Superfund: Volume I Human Health
11 Evaluation Manual; it is Volume I of the two-volume set called Risk
12 Assessment Guidance for Superfund available at
13 [https://www.epa.gov/risk/risk-assessment-guidance-superfund-rags-](https://www.epa.gov/risk/risk-assessment-guidance-superfund-rags-part)
14 part;

15 (C) Agency for Toxic Substances and Disease Registry, "Toxicological
16 Profile for [individual chemical]." U.S. Public Health Service;

17 (D) Montgomery, J.H., ~~1996-2007.~~ Groundwater Chemicals Desk
18 Reference. CRC Press, Inc; and

19 ~~(E) — Sims, R.C., J.L. Sims and S.G. Hansen, 1991. Soil Transport and Fate~~
20 ~~Database, Version 2.0. EPA Robert S. Kerr Environmental Laboratory;~~
21 ~~and~~

22 ~~(F)(E)~~ Other appropriate, published, peer-reviewed and scientifically valid data.

23 (b) Inorganic Constituents:

24 Soil mg/kg = groundwater standard or interim standard x [(20 x soil-water partition
25 coefficient for pH of 5.5) + 4 + (1.733 x 41 x Henry's Law Constant (atm.-m³/mole))].

26 (i) If no groundwater standard or interim standard has been established under Rule
27 .0202 of this Subchapter, the practical quantitation limit shall be used in lieu of a
28 standard to calculate the soil-to-groundwater maximum contaminant
29 concentrations.

30 (ii) The following references or the most recent version of these references, in order
31 of preference, shall be used to obtain soil-water partition coefficients and Henry's
32 Law Constants:

33 (A) ~~EPA, 1996. Soil Screening Guidance: Technical Background Document.~~
34 ~~(EPA/540/R95/128);~~ EPA. Superfund Chemical Data Matrix (SCDM),
35 available at [https://www.epa.gov/superfund/superfund-chemical-data-](https://www.epa.gov/superfund/superfund-chemical-data-matrix-scdm)
36 matrix-scdm. SCDM is referenced as an original source for the EPA,
37 1996, Soil Screening Guidance: Technical Background Document

1 (EPA/540/R95/128) and the 2002, Supplemental Guidance for
2 Developing Soil Screening Levels for Superfund Sites (EPA, OSWER
3 9355.4-24), and users are instructed in Appendix C of the 2002,
4 Supplemental Guidance for Developing Soil Screening Levels for
5 Superfund Sites, to obtain the most recent values from the referenced
6 sources;

7 (B) Baes, C.F., III, R.D. Sharp, A.L. Sjoreen, and R.W. Shor, 1984. A
8 Review and Analysis of Parameters for Assessing Transport of
9 Environmentally Released Radionuclides Through Agriculture. Oak
10 Ridge National Laboratory;

11 (C) Agency for Toxic Substances and Disease Registry, "Toxicological
12 Profile for [individual chemical]." U.S. Public Health Service; and

13 ~~(D) Sims, R.C., J.L. Sims and S.G. Hansen, 1991. Soil Transport and Fate~~
14 ~~Database, Version 2.0. EPA Robert S. Kerr Environmental Laboratory;~~
15 ~~and~~

16 ~~(E)(D)~~ Other appropriate, published, peer-reviewed and scientifically valid data.
17

18 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
19 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*
20 *Recodified from 15A NCAC 02L .0115(m);*
21 *Amended Eff. December 1, ~~2005-2005~~;*
22 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0412

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

In (a), where can these accepted methods be found? Are they available on the EPA's website? Have these been incorporated by reference in accordance with 150B-21.6 elsewhere in your Rules?

In your History Note, do you still need "1995 (Reg. Sess. 1996) c. 648, s.1"?

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0412 is readopted as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0412 ANALYTICAL PROCEDURES FOR SOIL SAMPLES**

4 (a) Analytical procedures for soil samples required under this ~~Section, except as provided in 15A NCAC 02L .0417~~
5 ~~of this Section, Section~~ shall be methods accepted by the US EPA as suitable for determining the presence and
6 concentration of petroleum hydrocarbons for the type of petroleum released.

7 (b) A sufficient number of soil samples collected, including the most contaminated sample, shall be analyzed as
8 follows in order to determine the risks of the constituents of contamination:

- 9 (1) soil samples collected from a discharge or release of low boiling point fuels, ~~including, but not~~
10 ~~limited to, including~~ gasoline, aviation ~~gasoline~~ gasoline, and gasohol, shall be analyzed for volatile
11 organic compounds and ~~additives~~ additives, including isopropyl ether and methyl tertiary butyl ether,
12 using EPA Method 8260, ~~including isopropyl ether and methyl tertiary butyl ether;~~ 8260;
- 13 (2) soil samples collected from a discharge or release of high boiling point fuels, ~~including, but not~~
14 ~~limited to, including~~ kerosene, diesel, varsol, mineral spirits, naphtha, jet ~~fuels~~ fuels, and fuel oil no.
15 2, shall be analyzed for volatile organic compounds using EPA Method 8260 and semivolatile
16 organic compounds using EPA Method 8270;
- 17 (3) soil samples collected from a discharge or release of heavy fuels shall be analyzed for semivolatile
18 organic compounds using EPA Method 8270;
- 19 (4) soil samples collected from a discharge or release of used and waste oil shall be analyzed for volatile
20 organic compounds using EPA Method 8260, semivolatile organic compounds using EPA Method
21 8270, polychlorinated biphenyls using EPA Method 8080, and chromium and ~~lead~~ lead using
22 procedures specified in Subparagraph (6) of this Paragraph;
- 23 (5) soil samples collected from ~~any~~ a discharge or release subject to this Section shall be analyzed for
24 alkane and aromatic carbon fraction classes using methods approved by the Director under ~~Rule 2H~~
25 ~~.0805(a)(1) of this Chapter;~~ 15A NCAC 02H .0805(a)(1);
- 26 (6) analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this Paragraph shall be
27 performed as specified in the following references or the most recent version of these references:
28 Test Methods for Evaluating Solid Wastes:Physical/Chemical Methods, November 1990, U.S.
29 Environmental Protection Agency publication number SW-846; or in accordance with other
30 methods or procedures approved by the Director under 15A NCAC ~~2H~~02H .0805(a)(1);
- 31 (7) other EPA-approved analytical methods may be used if the methods include the same constituents
32 as the analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this Paragraph and meet
33 the detection limits of the analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this
34 Paragraph; and
- 35 (8) metals and acid extractable organic compounds shall be eliminated from analyses of soil samples
36 collected pursuant to this Section if these compounds are not detected in soil samples collected

1 during the construction of the source area monitoring well required under ~~15A NCAC 02L~~Rule
2 .0405 of this Section.

3

4 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
5 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*

6 *Recodified from 15A NCAC 02L .0115(n);*

7 *Amended Eff. December 1, ~~2005-2005~~;*

8 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0413

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

In (a), where can these accepted methods be found? Are they available on the EPA's website? Have these been incorporated by reference in accordance with 150B-21.6 elsewhere in your Rules?

In (b), what is meant by a "sufficient number"? Please delete or define.

In (b)(6), I assume that these outside sources have already been incorporated by reference elsewhere in your Rules? If so, no change is needed, please just confirm.

In your History Note, do you still need "1995 (Reg. Sess. 1996) c. 648, s.1"?

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0413 is readopted as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0413 ANALYTICAL PROCEDURES FOR GROUNDWATER SAMPLES**

4 (a) Analytical procedures for groundwater samples required under this Section shall be methods accepted by the US
5 EPA as suitable for determining the presence and concentration of petroleum hydrocarbons for the type of petroleum
6 released.

7 (b) A sufficient number of groundwater samples, including the most contaminated sample, shall be analyzed as
8 follows in order to determine the risks of the constituents of contamination:

- 9 (1) groundwater samples collected from a discharge or release of low boiling point fuels, ~~including, but~~
10 ~~not limited to, including~~ gasoline, aviation ~~gasoline~~gasoline, and gasohol, shall be analyzed for
11 volatile organic ~~compounds~~compounds, including xylenes, isopropyl ether, and methyl tertiary
12 ~~butyl ether~~, using Standard Method ~~6210D~~6200B or EPA Methods 601 and ~~602, including xylenes,~~
13 ~~isopropyl ether and methyl tertiary butyl ether.~~602. Samples shall also be analyzed for ethylene
14 dibromide using EPA Method 504.1 and lead using Standard Method 3030C preparation. 3030C
15 metals preparation, using a 0.45 micron filter, ~~must~~shall be completed within 72 hours of sample
16 collection;
- 17 (2) groundwater samples collected from a discharge or release of high boiling point fuels, ~~including,~~
18 ~~but not limited to, including~~ kerosene, diesel, varsol, mineral spirits, naphtha, jet ~~fuels~~fuels, and fuel
19 oil no. 2, shall be analyzed for volatile organic compounds using EPA Method 602 and semivolatile
20 organic compounds plus the 10 largest non-target peaks identified using EPA Method 625;
- 21 (3) groundwater samples collected from a discharge or release of heavy fuels shall be analyzed for
22 semivolatile organic compounds plus the 10 largest non-target peaks identified using EPA Method
23 625;
- 24 (4) groundwater samples collected from a discharge or release of used or waste oil shall be analyzed
25 for volatile organic compounds using Standard Method ~~6210D~~6200B, semivolatile organic
26 compounds plus the 10 largest non-target peaks identified using EPA Method 625, and chromium
27 and lead using Standard Method 3030C preparation. 3030C metals preparation, using a 0.45 micron
28 filter, ~~must~~shall be completed within 72 hours of sample collection;
- 29 (5) groundwater samples collected from ~~any~~a discharge or release subject to this Section shall be
30 analyzed for alkane and aromatic carbon fraction classes using methods approved by the Director
31 under ~~Rule 2H .0805(a)(1) of this Chapter;~~15A NCAC 02H .0805(a)(1);
- 32 (6) analytical methods specified in Subparagraphs (1), (2), (3) and (4) of this Paragraph shall be
33 performed as specified in the following references or the most recent version of these references:
34 Test Procedures for the Analysis of Pollutants under the Clean Water Act, Federal Register Vol. 49
35 No. 209, 40 CFR Part 136, October 26, 1984; Standard Methods for the Examination of Water and
36 Wastewater, published jointly by American Public Health Association, American Water Works
37 Association and Water Pollution Control Federation; Methods for Determination of Organic

1 Compounds in Drinking Water, U.S. Environmental Protection Agency publication number EPA-
2 600/4-79-020; or in accordance with other methods or procedures approved by the Director under
3 15A NCAC ~~2H02H~~ .0805(a)(1);

4 (7) other EPA-approved analytical methods may be used if the methods include the same constituents
5 as the analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this Paragraph and meet
6 the detection limits of the analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this
7 Paragraph; and

8 (8) metals and acid extractable organic compounds shall be eliminated from analyses of groundwater
9 samples collected pursuant to this Section if these compounds are not detected in the groundwater
10 sample collected from the source area monitoring well installed pursuant to ~~15A NCAC 02L~~ Rule
11 .0405 of this Section.

12
13 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
14 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*
15 *Recodified from 15A NCAC 02L .0115(o);*
16 *Amended Eff. December 1, ~~2005-2005~~;*
17 *Readopted Eff. May 1, 2019.*

1 15A NCAC 02L .0414 is readopted as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0414 REQUIRED LABORATORY CERTIFICATION**

4 In accordance with 15A NCAC 02H .0804, laboratories ~~are required to~~shall obtain North Carolina Division of Water
5 Quality Resources laboratory certification for parameters that are required to be reported to the State in compliance
6 with the State's surface water, ~~groundwater~~groundwater, and pretreatment rules.

7

8 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
9 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*

10 *Recodified from 15A NCAC 02L .0115(p);*

11 *Amended Eff. December 1, ~~2005-2005~~;*

12 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0415

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

Since you've not used the exact language of "discharge or releases", please consider changing "such" to "the" or "a"

In your History Note, do you still need "1995 (Reg. Sess. 1996) c. 648, s.1"?

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0415 is readopted as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0415 DISCHARGES OR RELEASES FROM OTHER SOURCES**

4 This Section shall not relieve any person responsible for assessment or cleanup of contamination from a source other
5 than a commercial or noncommercial underground storage tank from its obligation to assess and clean up
6 contamination resulting from such discharge or releases.

7

8 *History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-*
9 *215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;*

10 *Recodified from 15A NCAC 02L .0115(q);*

11 *Amended Eff. December 1, 2005-2005;*

12 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0501

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

This is entirely up to you, but is the Title accurate? Your "rule application" rule in .0503 actually appears to be your scope rule.

In (b), what is meant by "the applicable portions of Section .0100? Is this language necessary? It seems superfluous. Can you just say "Section .0100 of this Subchapter shall apply to this Section unless specifically excluded?"

In your History Note, please put your authority in numerical order and move 143B-282 to the end.

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0501 is readopted as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0501 PURPOSE AND SCOPE**

4 (a) The purpose of this Section is to establish procedures for risk-based assessment and corrective action sufficient
5 to:

- 6 (1) protect human health and the environment;
- 7 (2) abate and control contamination of the waters of the State as deemed necessary to protect human
8 health and the environment;
- 9 (3) permit management of the State's groundwaters to protect their designated current usage and
10 potential future uses;
- 11 (4) provide for anticipated future uses of the State's groundwater;
- 12 (5) recognize the diversity of contaminants, the State's geology, and the characteristics of each
13 individual site; and
- 14 (6) accomplish these goals in a cost-efficient manner to assure the best use of the limited resources
15 available to address groundwater pollution within the State.

16 (b) The applicable portions of Section .0100 ~~not specifically excluded apply to this Section of this Subchapter shall~~
17 apply to this Section unless specifically excluded.

18

19 *History Note: Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA;*
20 *Eff. March 1, 2016-2016;*
21 *Readopted Eff. May 1, 2019.*

1 15A NCAC 02L .0502 is readopted with changes as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0502 DEFINITIONS**

4 The definitions as set out in Rule .0102 of this Subchapter ~~apply to this Section, in addition the following~~
5 ~~definitions~~ and the following definitions shall apply throughout this Section:

- 6 (1) "Aboveground storage tank" or "AST" means any one or a combination of ~~tanks (including~~
7 ~~underground tanks, including~~ pipes connected ~~thereto)~~thereto, that is used to contain an
8 accumulation of petroleum.
- 9 (2) "AST system" means an aboveground storage tank, connected ~~underground piping, underground~~
10 ancillary equipment, and containment system, if any.
- 11 (3) "Discharge" includes any emission, spillage, leakage, pumping, pouring, emptying, or dumping of
12 oil into groundwater or surface water or upon land in such proximity to such water that it is likely
13 to reach the water and any discharge upon land which is intentional, knowing, or willful.
- 14 (4) "Non-UST means as defined in G.S. 143-215.104AA(g) and excludes underground storage tank
15 releases governed by G.S. 143-215.94V.
- 16 (5) "Operator" means any person in control ~~of~~of or having responsibility for the daily operation of the
17 AST system.
- 18 (6) "Owner" means any person who owns a petroleum aboveground storage tank or other non-UST
19 petroleum tank, stationary or mobile, used for storage, use, dispensing, or transport.
- 20 (7) "Person" means an individual, trust, firm, joint stock company, Federal agency, corporation, state,
21 municipality, commission, political subdivision of a state, or any interstate body. "Person" also
22 includes a consortium, a joint venture, a commercial entity, and the United States Government.
- 23 (8) "Petroleum" or "petroleum products" means as defined in G.S. 143-215.94A(10).
- 24 (9) "Release" means any spilling, leaking, emitting, discharging, escaping, leaching, or disposing into
25 groundwater, surface water, or surface or subsurface soils.
- 26 (10) "Tank" means a device used to contain an accumulation of petroleum and constructed of non-earthen
27 ~~materials (e.g., materials, such as concrete, steel, plastic)~~or plastic, that provides structural support.

28
29 *History Note:* Authority G.S. 143-212(4); 143-215.3(a)(1); 143-215.77; 143B-282; 143-215.84; 143-215.104AA;
30 Eff. March 1, ~~2016~~, 2016;
31 Readopted Eff. May 1, 2019.

1 15A NCAC 02L .0503 is readopted as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0503 RULE APPLICATION**

4 ~~This Section applies to any non-UST petroleum discharge.~~ The requirements of this Section shall apply to the owner
5 and operator of a petroleum aboveground storage tank or other non-UST petroleum tank, stationary or mobile, from
6 which a discharge or release occurred and to any person determined to be responsible for assessment and cleanup of
7 a discharge or release from a non-UST petroleum source. This includes any source, including any person who has
8 conducted or controlled an activity that results in the discharge or release of petroleum or petroleum products (as
9 defined in G.S. 143-215.94A(10)) to the groundwaters of the State, State or in proximity thereto. These persons shall
10 be collectively referred to as the "responsible party" for purposes of this Section.

11

12 *History Note: Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA;*

13 *Eff. March 1, ~~2016~~, 2016;*

14 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0504

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

On line 5, a responsible party for what? I note that in .0404, you've said "a responsible party for a commercial underground storage tank..."

When would this Rule be applicable? Upon a discharge or release of petroleum from the the non-UST petroleum source? If so, please say that. Please make it clear within the body of the text of the Rule when this rule would apply because titles of Rules can be changed without going through the rulemaking process.

In Item (2), delete or define "precise"

What are initial abatement actions? Are those the actions described in this Item (as worded in my suggestion) or are they something else? With the punctuation of Item (2), I just want to be sure that I understand. Do you mean the following:

- (2) perform initial abatement actions to measure for the presence of a release where contamination is most likely to be present and to confirm the precise source of the ~~release;~~ **including an investigation to investigate** to determine the possible presence of free ~~product and to product;~~ **begin the initiation of** free product removal; and **to continue to monitor monitoring** and **mitigate mitigating any** all additional fire, explosion, or vapor hazards posed by vapors or by free ~~product. product;~~ **and The responsible party shall** submit a report to the Department of Environmental Quality, UST Section, Regional Office Supervisor in accordance with 15A NCAC 02B .0309 and .0311, within 20 days after release confirmation summarizing these initial abatement actions;

Please end (3)(b)(i) and (ii) with semi-colons, rather than commas.

Where does line 31, page 2 ("If such showing... Department") belong? Does it go with (5)(c) as in .0404(a)(3)?

In your History Note, please put your authority in numerical order and move 143B-282 to the end.

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0504 is readopted as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0504 REQUIRED INITIAL RESPONSE AND ABATEMENT ACTIONS BY**
4 **RESPONSIBLE PARTY**

5 A responsible party shall:

- 6 (1) take actions -to prevent ~~anyall~~ further discharge or release of petroleum from the non-UST petroleum
7 source; identify and mitigate ~~anyall~~ fire, explosion, or vapor hazard; and report the release within
8 24 hours of discovery, in compliance with G.S. 143-215.83(a), 84(a), and 85(b);
- 9 (2) perform -initial abatement actions to measure for the presence of a release where contamination is
10 most likely to be present and to confirm the precise source of the release; ~~to~~ investigate to determine
11 the possible presence of free ~~product and to~~product; begin free product removal; and to continue to
12 monitor and mitigate ~~anyall~~ additional fire, explosion, or vapor hazards posed by vapors or by free
13 product; and submit a report to the Department of Environmental Quality, UST Section, Regional
14 Office Supervisor in accordance with 15A NCAC 02B .0309 and .0311, within 20 days after release
15 confirmation summarizing these initial abatement actions;
- 16 (3) remove contaminated soil that would act as a continuing source of contamination to groundwater.
17 For a new release, no further action shall be necessary ~~where:if:~~
- 18 (a) initial abatement actions involving control and removal of contaminated materials are
19 initiated within 48 hours from discovery and before contaminated materials begin to impact
20 groundwater; and
- 21 (b) analysis, in accordance with the approved methods in Rule .0412 of this Subchapter, of
22 representative samples of remaining soils shows concentrations:
- 23 (i) at or below the more stringent of the soil-to-groundwater concentration value and
24 the residential maximum soil contamination concentration value, or
- 25 (ii) using other ~~EPA-approved~~EPA-approved analytical methods in accordance with
26 Rule .0412(b)(7) of this ~~Subchapter~~Subchapter, concentration values below the
27 more stringent of the soil-to-groundwater concentration alkane and aromatic
28 carbon fraction class values and the residential maximum soil contamination
29 concentration alkane and aromatic carbon fraction class values,

30 ~~Provided that, for new releases, if the abatement actions cannot be initiated within 48 hours of discovery, or if soil~~
31 ~~concentrations remain above the values in this Paragraph, the responsible party shall conduct all activities under Items~~
32 ~~(1) through (5) of this Rule;~~

33 For new releases, if the abatement actions cannot be initiated within 48 hours of discovery or if soil
34 concentrations remain above the values in this Paragraph, the responsible party shall conduct all
35 activities under Items (1) through (5) of this Rule;

- 36 (4) conduct initial site assessment, assembling information about the site and the nature of the release,
37 including the following:

- 1 (a) ~~site~~ site history and site characterization, including data on nature and estimated quantity
2 of release and data from available sources and site investigations concerning surrounding
3 populations, water quality, use, and approximate locations of wells, surface water bodies,
4 and subsurface structures potentially ~~effected~~ affected by the release, subsurface soil
5 conditions, locations of subsurface utilities, climatological conditions, and ~~land use;~~ land
6 use;
- 7 (b) ~~results~~ the results of free product investigations and free product removal, if applicable;
8 (c) ~~results~~ the results of groundwater and surface water investigations, if applicable;
9 (d) ~~summary~~ a summary of initial response and abatement actions; and ~~submit this information~~
10 ~~in the report required under Item (5) of this Rule; and~~
- 11 (5) submit as required in Item (2) of this Rule, within 90 days of the discovery of the discharge or
12 ~~release an initial assessment and abatement report containing the site characterization information~~
13 ~~required in Item (4) of this Rule; soil assessment information sufficient to show that remaining~~
14 ~~unsaturated soil in the side walls and at the base of the excavation does not contain contaminant~~
15 ~~levels which exceed either the "soil to groundwater" or the residential maximum soil contaminant~~
16 ~~concentrations established by the Department pursuant to Rule .0511 of this Section, whichever is~~
17 ~~lower; and documentation to show that neither bedrock nor groundwater was encountered in the~~
18 ~~excavation (or if groundwater was encountered, that contaminant concentrations in groundwater~~
19 ~~were equal to or less than the groundwater quality standards established in Rule .0202 of this~~
20 ~~Subchapter); release:~~
- 21 (a) ~~an initial assessment and abatement report as required in Item (4) of this Rule;~~
22 (b) ~~soil assessment information sufficient to show that remaining unsaturated soil in the side~~
23 ~~walls and at the base of the excavation does not contain contaminant levels that exceed~~
24 ~~either the soil-to-groundwater or the residential maximum soil contaminant concentrations~~
25 ~~established by the Department pursuant to Rule .0511 of this Section, whichever is lower;~~
26 ~~and~~
27 (c) ~~documentation to show that neither bedrock nor groundwater was encountered in the~~
28 ~~excavation or, if groundwater was encountered, that contaminant concentrations in~~
29 ~~groundwater were equal to or less than the groundwater quality standards established in~~
30 ~~Rule .0202 of this Subchapter.~~

31 If such showing is made, the discharge or release shall be classified as low risk by the Department.
32

33 *History Note:* Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA;
34 Eff. March 1, 2016-2016;
35 Readopted Eff. May 1, 2019.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0505

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

For purposes of clarity, please consider deleting “that demonstrates that the extension would not increase the risk posed by the release.” If you decide to keep it, I think it needs to be reworded a bit. Please also consider moving lines 9-14 to the end of this Rule making this language regarding the extension of time its own Paragraph (this would result in a need to reformat the rest of your Rule as well, including adding (a) to line 4.) As written, it gets a bit lost as the rest of this Rule speaks to what is required of the Report. I would also suggest that you break the factors used in making this determination into a list. It would look something like the following (please note that this formatting is not correct, but I did it this way to show you what I mean):

(b) The responsible party may request an extension of the 120 day deadline as set forth in Paragraph (a) of this Rule. When considering a request from a responsible party for additional time to submit the report, the Department shall consider the following:

- (1) the extent to which the request for additional time is due to factors outside of the control of the responsible party;
- (2) the previous history of the person submitting the report in complying with deadlines established under the Commission's rules;
- (3) the technical complications associated with assessing the extent of contamination at the site or identifying potential receptors; and
- (4) the necessity for action to eliminate an imminent threat to public health or the environment.

Please note that as written, the language regarding the extension is inconsistent with the language in .0505. Was that intentional?

In Item (3), where can this map be found? Is it available on your website?

In Item (9), what is meant by “such discussion shall be based on information known or required to be obtained under this Item”? Is this language necessary?

In your History Note, please put your authority in numerical order and move 143B-282 to the end.

Amber May
Commission Counsel

Date submitted to agency: Monday, March 25, 2019

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0505 is readopted with changes as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0505 REQUIREMENTS FOR LIMITED SITE ASSESSMENT**

4 If the required showing cannot be made by the responsible party under Rule .0504 of this Section, the responsible
5 party shall submit within 120 days of the discovery of the discharge or release, a report as required in Rule .0504 of
6 this Section, containing information needed by the Department to classify the level of risk to human health and the
7 environment posed by a discharge or release under Rule .0506 of this Section. The responsible party may request an
8 extension prior to the deadline that demonstrates ~~to the Department~~ that the extension would not increase the risk
9 posed by the release. When considering a request from a responsible party for additional time to submit the report, the
10 Department shall consider the extent to which the request for additional time is due to factors outside of the control of
11 the responsible party, the previous history of the person submitting the report in complying with deadlines established
12 under the Commission's rules, the technical complications associated with assessing the extent of contamination at the
13 site or identifying potential receptors, and the necessity for action to eliminate an imminent threat to public health or
14 the environment. ~~Such~~The report shall ~~include the following:~~include:

- 15 (1) a location map, based on a USGS topographic map, showing the radius of 1500 feet from the source
16 area of a confirmed release or discharge and depicting all water supply wells, surface waters, and
17 designated "wellhead protection areas" as defined in 42 U.S.C. 300h-7(e) within the 1500-foot
18 radius. 42 U.S.C. 300h-7(e), is incorporated by reference including subsequent amendments and
19 editions. Copies may be obtained at no cost from the U.S. Government Bookstore's website at
20 [http://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/html/USCODE-2010-title42-chap6A-](http://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/html/USCODE-2010-title42-chap6A-subchapXII-partC-sec300h-7.htm)
21 [subchapXII-partC-sec300h-7.htm](http://www.gpo.gov/fdsys/pkg/USCODE-2010-title42/html/USCODE-2010-title42-chap6A-subchapXII-partC-sec300h-7.htm). The material is available for inspection at the Department of
22 Environmental Quality, UST Section, 217 West Jones Street, Raleigh, NC 27603. For purposes of
23 this Section, "~~source~~ source area" means point of release or discharge from the non-UST petroleum
24 source, or if the point of release cannot be determined precisely, "source area" means the area of
25 highest contaminant concentrations;
- 26 (2) a determination of whether the source area of the discharge or release is within a designated
27 "wellhead protection area" as defined in 42 U.S.C. 300h-7(e);
- 28 (3) if the discharge or release is in the Coastal Plain physiographic region as designated on a map
29 entitled "Geology of North Carolina" published by the Department in 1985, a determination of
30 whether the source area of the discharge or release is located in an area in which there is recharge
31 to an unconfined or semi-confined deeper aquifer that is being used or may be used as a source of
32 drinking water;
- 33 (4) a determination of whether vapors from the discharge or release pose a threat of explosion due to
34 the accumulation of vapors in a confined space; pose a risk to public health from exposure; or pose
35 any other ~~serious~~ threat to public health, public safety, or the environment;
- 36 (5) scaled site ~~map(s)~~maps showing the location of the following that are on or adjacent to the property
37 where the source is located:

- 1 (a) site boundaries;
- 2 (b) roads;
- 3 (c) buildings;
- 4 (d) basements;
- 5 (e) floor and storm drains;
- 6 (f) subsurface utilities;
- 7 (g) septic tanks and leach fields;
- 8 (h) underground and aboveground storage tank systems;
- 9 (i) monitoring wells;
- 10 (j) water supply wells;
- 11 (k) surface water bodies and other drainage features;
- 12 (l) borings; and
- 13 ~~(k)~~(m) the sampling points;
- 14 (6) the results from a limited site assessment that shall include the following actions:
 - 15 (a) determine the presence, the lateral and vertical extent, and the maximum concentration
 - 16 levels of soil and, if possible, groundwater contamination and free product accumulations;
 - 17 (b) install monitoring wells constructed in accordance with 15A NCAC 02C ~~.0108, .0108~~
 - 18 within the area of maximum soil or groundwater contamination to determine the
 - 19 groundwater flow direction and maximum concentrations of dissolved groundwater
 - 20 contaminants or accumulations of free product. During well construction, the responsible
 - 21 party shall collect and analyze soil samples that represent the suspected highest
 - 22 contaminant-level locations by exhibiting visible contamination or elevated levels of
 - 23 volatile organic ~~compounds, compounds~~ from successive locations at five-foot depth
 - 24 intervals in the boreholes of each monitoring well within the unsaturated zone; collect
 - 25 potentiometric data from each monitoring well; and collect and analyze groundwater or
 - 26 measure the amount of free product, if present, in each monitoring well;
- 27 (7) the availability of public water supplies and the identification of properties served by the public
- 28 water supplies within 1500 feet of the source area of a confirmed discharge or release;
- 29 (8) the land use, including zoning if applicable, within 1500 feet of the source area of a confirmed
- 30 discharge or release;
- 31 (9) a discussion of ~~site-specific~~ site-specific conditions or possible actions that may result in lowering
- 32 the risk classification assigned to the release. Such discussion shall be based on information known
- 33 or required to be obtained under this Item; and
- 34 (10) names and current addresses of all responsible parties for all petroleum sources for which a
- 35 discharge or release is confirmed, the ~~owner(s)~~ owners of the land upon which such petroleum
- 36 sources are located, and all potentially affected real property owners. Documentation of ownership
- 37 of ASTs or other sources and of the property upon which a source is located shall be provided. ~~When~~

1 ~~considering a request from a responsible party for additional time to submit the report, the~~
2 ~~Department shall consider the following:~~

3 ~~(a) — the extent to which the request for additional time is due to factors outside of the control~~
4 ~~of the responsible party;~~

5 ~~(b) — the previous history of the person submitting the report in complying with deadlines~~
6 ~~established under the Commission's rules;~~

7 ~~(c) — the technical complications associated with assessing the extent of contamination at the~~
8 ~~site or identifying potential receptors; and~~

9 ~~(d) — the necessity for action to eliminate an imminent threat to public health or the environment.~~

10
11 *History Note:* Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA.

12 *Eff. March 1, 2016. 2016;*

13 *Readopted Eff. May 1, 2019.*

1 15A NCAC 02L .0506 is readopted as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0506 DISCHARGE OR RELEASE CLASSIFICATIONS**

4 The Department shall classify the risk of each known discharge or release as high, ~~intermediate~~intermediate, or low
5 risk, unless the discharge or release has been classified under Rule .0504 of this Section. For purposes of this Section:

6 (1) "High risk" means that:

- 7 (a) a water supply well, including one used for non-drinking purposes, has been contaminated
8 by ~~the~~a release or discharge;
- 9 (b) a water supply well used for drinking water is located within 1000 feet of the source area
10 of a confirmed discharge or release;
- 11 (c) a water supply well not used for drinking water is located within 250 feet of the source area
12 of a confirmed discharge or release;
- 13 (d) the groundwater within 500 feet of the source area of a confirmed discharge or release has
14 the potential for future use in that there is no source of water supply other than the
15 groundwater;
- 16 (e) the vapors from ~~the~~a discharge or release pose a serious threat of explosion due to
17 accumulation of the vapors in a confined space or pose a risk to public health from
18 exposure; or
- 19 (f) ~~the~~a discharge or release poses an imminent danger to public health, public safety, or the
20 environment.

21 (2) "Intermediate risk" means that:

- 22 (a) surface water is located within 500 feet of the source area of a confirmed discharge or
23 release and the maximum groundwater contaminant concentration exceeds the applicable
24 surface water quality standards and criteria found in 15A NCAC 02B .0200 by a factor of
25 10;
- 26 (b) in the Coastal Plain physiographic region as designated on a map entitled "Geology of
27 North Carolina" published by the Department in 1985, the source area of a confirmed
28 discharge or release is located in an area in which there is recharge to an unconfined or
29 semi-confined deeper aquifer that the Department determines is being used or may be used
30 as a source of drinking water;
- 31 (c) the source area of a confirmed discharge or release is within a designated wellhead
32 protection area, as defined in 42 U.S.C. 300h-7(e);
- 33 (d) the levels of groundwater contamination for any contaminant except ethylene dibromide,
34 benzene, and alkane and aromatic carbon fraction classes exceed 50 percent of the
35 solubility of the contaminant at 25 degrees Celsius or 1,000 times the groundwater standard
36 or interim standard established in Rule .0202 of this Subchapter, whichever is lower; or

1 (e) the levels of groundwater contamination for ethylene dibromide and benzene exceed 1,000
2 times the federal drinking water standard as referenced in 15A NCAC 18C ~~1518~~
3 ~~hereby, 1518~~, incorporated by reference including subsequent amendments and editions
4 and is available free of charge at [http://reports.oah.state.nc.us/ncac/title 15a -](http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20c/15a%20ncac%2018c%201518.pdf)
5 [environmental quality/chapter 18 - environmental health/subchapter c/15a ncac 18c](http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20c/15a%20ncac%2018c%201518.pdf)
6 [.1518.pdf](http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20c/15a%20ncac%2018c%201518.pdf).

7 (3) "Low risk" means that:

- 8 (a) the risk posed does not fall within the high or intermediate risk categories; or
9 (b) based on review of site-specific information, limited assessment, or interim corrective
10 actions, ~~the Department determines that~~ the discharge or release poses no significant risk
11 to human health or the environment.

12 If the criteria for more than one risk category applies, the discharge or release shall be classified at the highest risk
13 level identified in Rule .0507 of this Section.

14
15 *History Note:* Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA;
16 *Eff. March 1, 2016. 2016;*
17 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0507

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

*Please, delete "it shall be a continuing obligation that." This language appears to be superfluous given the rest of the sentence that requires they notify you of **any** changes. In any event, please make consistent with Paragraph (a) of .0407.*

In (a), how it is determined whether a change "should be known"? I assume that your regulated public is familiar with what they should know?

In (c), line 22, please change "shall not" to "does not"

In (c), line 24, by "may", do you mean "shall" in "may approve"?

In (d), line 14, page 2, please change "will not" to "does not"

In (e), please change "will be" to "is" in "will be required"

In (e)(2), when would public notification be required? Is there a cross-reference available? Is that the notice set forth in .0509?

In (e)(3), what are the required land use restrictions? Is there a cross-reference available?

In (e)(4), what is the applicable fees? Is there a cross-reference available?

In your History Note, please put your authority in numerical order and move 143B-282 to the end.

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0507 is readopted as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0507 RECLASSIFICATION OF RISK LEVELS**

4 (a) ~~It shall be a continuing obligation that each responsible party shall notify the Department of any changes that may~~
5 ~~affect the level of risk assigned to a discharge or release by the Department if the change is known or should be known~~
6 ~~by the responsible party, including changes in zoning of real property, use of real property, or the use of groundwater~~
7 ~~that has been contaminated or is expected to be contaminated by the discharge or release.~~ The Department ~~may~~shall
8 reclassify the risk posed by a release if warranted by further information concerning the potential exposure of receptors
9 to the discharge or release or upon receipt of new information concerning changed conditions at the site. After initial
10 classification of the discharge or release, the Department may require limited assessment, interim corrective action,
11 or other actions that the Department believes ~~may~~will result in a lower risk classification. ~~It shall be a continuing~~
12 ~~obligation of each responsible party to notify the Department of any changes that may affect the level of risk assigned~~
13 ~~to a discharge or release by the Department if the change is known or should be known by the responsible party. Such~~
14 ~~changes may include changes in zoning of real property, use of real property, or the use of groundwater that has been~~
15 ~~contaminated or is expected to be contaminated by the discharge or release.~~

16 (b) Remediation of sites with off-site migration shall be subject to the provisions of G.S. 143-215.104AA.

17 (c) If the risk posed by a discharge or release is determined by the Department to be high risk, the responsible party
18 shall comply with the assessment and cleanup requirements of Rule .0106(c), (g), and (h) of this Subchapter. The goal
19 of ~~any~~a required corrective action for groundwater contamination shall be restoration to the level of the groundwater
20 standards set forth in Rule .0202 of this Subchapter, or as closely thereto as is economically and technologically
21 ~~feasible as determined by the Department.~~feasible. In ~~any~~a corrective action plan submitted pursuant to this Paragraph,
22 natural attenuation may be used when the benefits of its use shall not increase the risk to the environment and human
23 ~~health as determined by the Department.~~health. If the responsible party demonstrates that natural attenuation prevents
24 the further migration of the plume, the Department may approve a groundwater monitoring plan.

25 (d) If the risk posed by a discharge or release is determined by the Department to be an intermediate risk, the
26 responsible party shall comply with the assessment requirements of Rule .0106(c) and (g) of this Subchapter. As part
27 of the comprehensive site assessment, the responsible party shall evaluate, based on site specific conditions, whether
28 the release poses a significant risk to human health or the environment. If the Department determines, based on the
29 site-specific conditions, that the discharge or release does not pose a significant threat to human health or the
30 environment, the site shall be reclassified as a low risk site. If the site is not reclassified, the responsible party shall,
31 at the direction of the Department, submit a groundwater monitoring plan or a corrective action plan, or a combination
32 thereof, meeting the cleanup standards of this Paragraph and containing the information required in Rule .0106(h) of
33 this Subchapter. Discharges or releases that are classified as intermediate risk shall be remediated, at a minimum, to a
34 cleanup level of 50 percent of the solubility of the contaminant at 25 degrees Celsius or 1,000 times the groundwater
35 standard or interim standard established in Rule .0202 of this Subchapter, whichever is ~~lower~~lower, for any
36 groundwater contaminant except ethylene dibromide, benzene, and alkane and aromatic carbon fraction classes.
37 Ethylene dibromide and benzene shall be remediated to a cleanup level of 1,000 times the federal drinking water

1 standard as referenced in 15A NCAC 18C ~~.1518 is hereby~~ .1518, incorporated by reference including subsequent
2 amendments and editions and ~~is~~ available free of charge at [http://reports.oah.state.nc.us/ncac/title 15a - environmental](http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20c/15a%20ncac%2018c%20.1518.pdf)
3 [quality/chapter 18 - environmental health/subchapter c/15a ncac 18c .1518.pdf](http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2018%20-%20environmental%20health/subchapter%20c/15a%20ncac%2018c%20.1518.pdf). ~~.1518.pdf~~. .1518.pdf. Additionally, if a corrective
4 action plan or groundwater monitoring plan is required under this Paragraph, the responsible party shall demonstrate
5 that the groundwater cleanup levels are sufficient to prevent a violation of:

- 6 (1) the rules contained in 15A NCAC 02B;
- 7 (2) the standards contained in Rule .0202 of this Subchapter in a deep aquifer as described in Rule
8 .0506(2)(b) of this Section; and
- 9 (3) the standards contained in Rule .0202 of this Subchapter at a location no closer than one year time
10 of travel upgradient of a well within a designated wellhead protection area, based on travel time and
11 the natural attenuation capacity of the subsurface materials or on a physical barrier to groundwater
12 migration that exists or will be installed by the person making the request.

13 In any corrective action plan submitted pursuant to this Paragraph, natural attenuation may be used ~~when~~ if the benefits
14 of its use ~~shall~~ will not increase the risk to the environment and human health and shall not increase the costs of the
15 corrective action.

16 (e) If the risk posed by a discharge or release is determined ~~by the Department~~ to be a low risk, the Department shall
17 notify the responsible party that no cleanup, no further cleanup, or no further action will be required by the Department,
18 unless the Department later determines that the discharge or release poses an unacceptable risk or a potentially
19 unacceptable risk to human health or the environment. No notification shall be issued pursuant to this Paragraph,
20 however, until the responsible party ~~has completed soil remediation pursuant to Rule .0508 of this Section or as closely~~
21 ~~thereto as economically or technologically feasible as determined by the Department; has submitted proof of public~~
22 ~~notification and has recorded any land use restriction(s), if required; and paid any applicable statutorily authorized~~
23 ~~fees.~~ has:

- 24 (1) completed soil remediation pursuant to Rule .0508 of this Section or as closely thereto as
25 economically or technologically feasible;
- 26 (2) submitted proof of public notification, if required;
- 27 (3) recorded all required land-use restrictions; and
- 28 (4) paid any applicable statutorily authorized fees.

29 ~~The issuance by the Department of a notification under this Paragraph shall not affect any private right of action by~~
30 ~~any party that may be affected by the contamination.~~

31
32 *History Note:* Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA;
33 Eff. March 1, 2016;
34 Amended Eff. March 1, 2017-2017;
35 Readopted Eff. May 1, 2019.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0508

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

In Item (2), when are they to provide the report regarding the vertical and horizontal extent of soil contamination? Upon any discharge or release? I'm only asking because Items (3) and (4) give specific information as to when each will be required. I note that this language is different than that in .0408(2).

In your History Note, please put your authority in numerical order and move 143B-282 to the end.

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0508 is readopted as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0508 ASSESSMENT AND REMEDIATION PROCEDURES**

4 Assessment and remediation of soil contamination shall be addressed as follows:

- 5 (1) At the time that the Department determines the risk posed by the discharge or release, the
6 Department shall also determine, based on site-specific information, whether the site is "residential"
7 or "industrial/commercial." For the purposes of this Section, a site is presumed residential, but may
8 be classified as industrial/commercial if the Department determines based on site-specific
9 information that exposure to the soil contamination is limited in time due to the use of the site and
10 does not involve exposure to children. For the purposes of this Item, "site" means both the property
11 upon which the discharge or release ~~has~~ occurred and any property upon that soil has been affected
12 by the discharge or release.
- 13 (2) The responsible party shall submit a report to the Department assessing the vertical and horizontal
14 extent of soil contamination.
- 15 (3) For a discharge or release classified by the Department as low risk, the responsible party shall submit
16 a report demonstrating that soil contamination has been remediated to either the residential or
17 industrial/commercial maximum soil contaminant concentration established by the Department
18 pursuant to Rule .0511 of this Section, whichever is applicable.
- 19 (4) For a discharge or release classified by the Department as high or intermediate risk, the responsible
20 party shall submit a report demonstrating that soil contamination has been remediated to the lower
21 of:
- 22 (a) the residential or industrial/commercial maximum soil contaminant concentration,
23 whichever is applicable, that has been established by the Department pursuant to Rule
24 .0511 of this Section; or
- 25 (b) the "soil-to-groundwater" maximum soil contaminant concentration that has been
26 established by the Department pursuant to Rule .0511 of this Section.

27
28 *History Note: Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA;*
29 *Eff. March 1, ~~2016~~. 2016;*
30 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0509

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

In (a), please delete "or" after "attenuation." I note that you have made this deletion in .0409.

In (a), what is meant by "interim standard"? Do you mean "interim maximum allowable concentration"? Do you need "or interim standard" or can you delete "or interim standard"? Wouldn't these already be included by saying "standard as set forth in Rule .0202"? It appears to be superfluous (and initially caused me some confusion.)

On line 17, do you mean "may receive and consider comments"? I don't see where comments can be submitted to you all otherwise.

On lines 20 and 35, what is meant by "such notice in a prominent manner designed to give actual notice to the occupants"? Specifically, please delete or define "prominent" and "actual." I note that this language was changed in .0409.

In your History Note, please put your authority in numerical order and move 143B-282 to the end.

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0509 is readopted as published in 33:12 NCR 1323 as follows:

2
3 **15A NCAC 02L .0509 NOTIFICATION REQUIREMENTS**

4 (a) A responsible party who submits a corrective action plan that proposes natural ~~attenuation~~ attenuation, or to cleanup
5 groundwater contamination to a standard other than a standard or interim standard established in Rule .0202 of this
6 Subchapter, or to cleanup soil other than to the standard for residential use or soil-to-groundwater contaminant
7 concentration established pursuant to this Section, whichever is lowest, shall give notice to:

- 8 (1) the local Health Director and the chief administrative officer of each political jurisdiction in which
9 the contamination occurs;
- 10 (2) all property owners and occupants within or contiguous to the area containing the contamination;
11 and
- 12 (3) all property owners and occupants within or contiguous to the area where the contamination is
13 expected to migrate.

14 ~~Such~~The notice shall describe the nature of the plan and the reasons supporting it. Notification shall be made by
15 certified mail concurrent with the submittal of the corrective action plan. Approval of the corrective action plan by
16 the Department shall be postponed for a period of 30 days following receipt of the request so that the Department may
17 consider ~~comments submitted~~ comments. The responsible party shall, within 60 days, provide the Department with a
18 copy of the notice and proof of receipt of each required ~~notice~~ notice or of refusal by the addressee to accept delivery
19 of a required notice. If notice by certified mail to occupants under this Paragraph is impractical, the responsible party
20 may give notice by posting such notice in a prominent manner designed to give actual notice to the occupants. If
21 notice is made to occupants by posting, the responsible party shall provide the Department with a copy of the posted
22 notice and a description of the manner in which such posted notice was given.

23 (b) A responsible party who receives a notice pursuant to Rule .0507(d) of this Section for a discharge or release that
24 has not been remediated to the groundwater standards or interim standards established in Rule .0202 of this Subchapter
25 or to the lower of the residential or soil-to-groundwater contaminant concentrations established under Rule .0511 of
26 this Section, shall, within 30 days of the receipt of such notice, provide a copy of the notice to:

- 27 (1) the local Health Director and the chief administrative officer of each political jurisdiction in which
28 the contamination occurs;
- 29 (2) all property owners and occupants within or contiguous to the area containing contamination; and
- 30 (3) all property owners and occupants within or contiguous to the area where the contamination is
31 expected to migrate.

32 Notification shall be made by certified mail. The responsible party shall, within 60 days, provide the Department with
33 proof of receipt of the copy of the ~~notice~~ notice or of refusal by the addressee to accept delivery of the copy of the
34 notice. If notice by certified mail to occupants under this Paragraph is impractical, the responsible party may give
35 notice by posting a copy of the notice in a prominent manner designed to give actual notice to the occupants. If notice
36 is made to occupants by posting, the responsible party shall provide the Department with a description of the manner
37 in which such posted notice was given.

1

2 *History Note: Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.104AA;*

3 *Eff. March 1, ~~2016~~, 2016;*

4 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0510

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

Is the intent of this Rule to provide the public with information or to provide a directive to the Department? I think it's the former. As such, please consider the following:

~~To the extent feasible, the~~ ~~[The]~~ ~~Department shall maintain in each of the Department's regional offices a~~ ~~Δ~~ ~~list of all non-UST petroleum discharges or releases discovered and reported to the Department within the~~ ~~region.~~ region are available in each of the Department's regional offices.

In your History Note, please put your authority in numerical order and move 143B-282 to the end.

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0510 is readopted as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0510 DEPARTMENTAL LISTING OF DISCHARGES OR RELEASES**

4 ~~To the extent feasible, the~~The Department shall maintain in each of the Department's regional offices a list of all non-
5 UST petroleum discharges or releases discovered and reported to the Department within the region.

6

7 *History Note: Authority G.S. 143-215.3(a)(1); 143B-282;*

8 *Eff. March 1, ~~2016~~. 2016;*

9 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0511

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

To provide a clear directive to your regulated public (i.e., use the word "shall" somewhere), please consider revising this Rule as follows:

For the purposes of risk-based assessment and remediation for non-UST petroleum releases, ~~refer to Rule .0413 of this Subchapter for establishment of maximum soil contamination concentrations.~~ concentrations shall be in accordance with Rule .0411 of this Subchapter.

In your History Note, please put your authority in numerical order and move 143B-282 to the end.

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0511 is readopted as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0511 ESTABLISHING MAXIMUM SOIL CONTAMINATION CONCENTRATIONS**

4 For the purposes of risk-based assessment and remediation for non-UST petroleum releases, refer to Rule .0411 of
5 this Subchapter for establishment of maximum soil contamination concentrations.

6

7 *History Note: Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA;*

8 *Eff. March 1, ~~2016~~. 2016;*

9 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0512

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

To provide a clear directive to your regulated public (i.e., use the word "shall" somewhere), please consider revising this Rule as follows:

For the purposes of risk-based assessment and remediation for non-UST petroleum releases, refer to Rule .0413 of this Subchapter for analytical procedures for soil samples. samples shall be in accordance with Rule .0412 of this Subchapter.

In your History Note, please put your authority in numerical order and move 143B-282 to the end.

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0512 is readopted as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0512 ANALYTICAL PROCEDURES FOR SOIL SAMPLES**

4 For the purposes of risk-based assessment and remediation for non-UST petroleum releases, refer to Rule .0412 of
5 this Subchapter for analytical procedures for soil samples.

6

7 *History Note: Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA;*

8 *Eff. March 1, ~~2016~~. 2016;*

9 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0513

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

To provide a clear directive to your regulated public (i.e., use the word "shall" somewhere), please consider revising this Rule as follows:

For the purposes of risk-based assessment and remediation for non-UST petroleum releases, ~~refer to Rule .0413 of this Subchapter for~~ analytical procedures for groundwater ~~samples. samples shall be in accordance with Rule .0413 of this Subchapter.~~

In your History Note, please put your authority in numerical order and move 143B-282 to the end.

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0513 is readopted as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0513 ANALYTICAL PROCEDURES FOR GROUNDWATER SAMPLES**

4 For the purposes of risk-based assessment and remediation for non-UST petroleum releases, refer to Rule .0413 of
5 this Subchapter for analytical procedures for groundwater samples.

6

7 *History Note: Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA;*

8 *Eff. March 1, ~~2016~~. 2016;*

9 *Readopted Eff. May 1, 2019.*

1 15A NCAC 02L .0514 is readopted as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0514 REQUIRED LABORATORY CERTIFICATION**

4 In accordance with 15A NCAC 02H .0804, laboratories shall obtain North Carolina Division of Water Resources
5 laboratory certification for parameters that ~~shall~~ are required to be reported to the State in compliance with the State's
6 surface water, groundwater, and pretreatment rules.

7

8 *History Note: Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA;*

9 *Eff. March 1, ~~2016~~, 2016;*

10 *Readopted Eff. May 1, 2019.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Emergency Management Commission

RULE CITATION: 15A NCAC 02L .0515

DEADLINE FOR RECEIPT: Monday, April 8, 2019

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends that the following technical changes be made:

Since you've not used the exact language of "discharge or releases", please consider changing "such" to "the" or "a"

In your History Note, please put your authority in numerical order and move 143B-282 to the end.

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

Amber May
Commission Counsel
Date submitted to agency: Monday, March 25, 2019

1 15A NCAC 02L .0515 is readopted as published in 33:12 NCR 1323 as follows:

2

3 **15A NCAC 02L .0515 DISCHARGES OR RELEASES FROM OTHER SOURCES**

4 This Section shall not relieve any person responsible for assessment or cleanup of contamination from a source other
5 than a non-UST petroleum release from its obligation to assess and clean up contamination resulting from such
6 discharge or releases.

7

8 *History Note: Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA;*

9 *Eff. March 1, ~~2016~~2016;*

10 *Readopted Eff. May 1, 2019.*