

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: All Rules; 15A NCAC 02N

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

When citing federal regulations, specifically when you incorporate them by reference, you often use the following format XX CFR XXX.XX (Subpart X). The Subpart is a grouping of CFRs, not a specific reference within the cited CFR. Why is this necessary if you are only incorporating the cited CFR instead of the entire Subpart? Please consider deleting "(Subpart X)."

Throughout these rules, please add a comma after "reference" when incorporating a material by reference. For example: "...are hereby incorporated by reference, excluding any subsequent amendments..."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0201

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

In (2), the CFR uses the date October 13, 2015. 40 CFR 280.10(a)(1)(ii)-(iii). The date used in this Rule is November 1, 2007. Just to be sure, was this intentional?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02N .0201 is readopted as published in 35:4 NCR 426 as follows:

2
3 **SUBCHAPTER 02N – CRITERIA AND STANDARDS APPLICABLE TO UNDERGROUND STORAGE**
4 **TANKS**

5
6 **15A NCAC 02N .0201 APPLICABILITY**

7 The regulations governing "Applicability" set forth in 40 CFR 280.10 (Subpart A) are hereby incorporated by
8 ~~reference, reference excluding any subsequent amendments and editions,~~ except that:

- 9 (1) ~~Underground~~underground storage tanks (UST) containing de minimis concentrations of regulated
10 substances are also subject to the requirements for permanent closure in Rules .0802 and .0803 of
11 this Subchapter; and
12 (2) UST systems that store fuel solely for use by emergency power generators installed on or after
13 November 1, 2007 shall also meet the requirements of Section .0900 of this Subchapter.

14
15 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*
16 *Eff. January 1, 1991;*
17 *Amended Eff. June 1, 2017; November 1, ~~2007-2007;~~*
18 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0202 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0202 INSTALLATION REQUIREMENTS FOR PARTIALLY EXCLUDED UST**
4 **SYSTEMS**

5 The regulations governing "Installation requirements for partially excluded UST systems" set forth in 40 CFR 280.11
6 (Subpart A) are hereby incorporated by ~~reference~~reference excluding any subsequent amendments and editions.

7
8 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

9 *Eff. January 1, 1991;*

10 *Amended Eff. June 1, ~~2017~~2017;*

11 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0203 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0203 DEFINITIONS**

4 (a) The regulations governing "Definitions" set forth in 40 CFR 280.12 (Subpart A) are hereby incorporated by
5 ~~reference, reference excluding any subsequent amendments and editions.~~ except that:

- 6 (1) ~~40 CFR 280.12~~ "UST system" shall be changed to read "'UST system' or 'Tank system' means an
7 underground storage tank, connected underground piping, underground ancillary equipment,
8 dispenser, and containment system, if any";
9 (2) ~~40 CFR 280.12~~ "Class A operator" shall not be incorporated by reference;
10 (3) ~~40 CFR 280.12~~ "Class B operator" shall not be incorporated by reference;
11 (4) ~~40 CFR 280.12~~ "Class C operator" shall not be incorporated by reference;
12 (5) ~~40 CFR 280.12~~ "Replaced" shall not be incorporated by reference; and
13 (6) ~~40 CFR 280.12~~ "Secondary containment or secondarily contained" shall not be incorporated by
14 reference.

15 ~~(b) This Rule shall apply throughout this Subchapter except that:~~

- 16 ~~(1) "Implementing agency" shall mean the "Division of Waste Management."~~
17 ~~(2) "Division" shall mean the "Division of Waste Management."~~
18 ~~(3) "Director" and "Director of the Implementing Agency" shall mean the "Director of the Division of~~
19 ~~Waste Management."~~

20 ~~(e)~~(b) The following definitions shall apply throughout this Subchapter:

- 21 (1) "De minimis concentration" means the amount of a regulated substance that does not exceed one
22 percent ~~(1%)~~ of the capacity of a tank, excluding piping and vent lines.
23 (2) "Director" and "Director of the Implementing Agency" means the "Director of the Division of Waste
24 Management."
25 (3) "Division" means the "Division of Waste Management."
26 ~~(2)(4)~~ "Expediently emptied after use" means the removal of a regulated substance from an emergency
27 spill or overflow containment UST system within 48 hours after use of the UST system has ceased.
28 (5) "Implementing agency" means the "Division of Waste Management."
29 ~~(3)(6)~~ "Previously closed" means:
30 (A) An UST system from which all regulated substances had been removed, the tank had been
31 filled with a solid inert material, and tank openings had been sealed or capped prior to
32 December 22, 1988; or
33 (B) An UST system removed from the ground prior to December 22, 1988.
34 ~~(4)(7)~~ "Temporarily closed" means:
35 (A) An UST system from which the product has been removed such that not more than one
36 inch of product and residue are present in any portion of the tank; or

- 1 (B) Any UST system in use as of December 22, 1988 that complies with the provisions of ~~15A~~
2 ~~NCAC 02N .0801~~. Rule .0801 of this Subchapter.
- 3 ~~(5)(8)~~ "Secondary containment" means a method or combination of methods of release detection for UST
4 systems that includes:
- 5 (A) For tank installations or replacements completed prior to November 1, 2007, double-walled
6 construction and external ~~liners (including vaults);~~ liners, including vaults;
- 7 (B) For underground piping installations or replacements completed prior to November 1,
8 2007, trench liners and double-walled construction;
- 9 (C) For tank installations or replacements completed on or after November 1, 2007, double-
10 walled construction and interstitial release detection monitoring that meet the requirements
11 of Section .0900 of this Subchapter; and
- 12 (D) For all other UST system component installations or replacements completed on or after
13 November 1, 2007, double-walled construction or containment within a liquid-tight sump
14 and interstitial release detection monitoring that meet the requirements of Section .0900 of
15 this Subchapter. Upon written request, the Division shall approve other methods of
16 secondary containment for connected piping that it determines are capable of meeting the
17 requirements of Section .0900 of this Subchapter.
- 18 ~~(6)(9)~~ "Interstitial space" means the opening formed between the inner and outer wall of an UST system
19 with double-walled construction or the opening formed between the inner wall of a containment
20 sump and the UST system component that it contains.
- 21 ~~(7)(10)~~ "Replace" means to remove an UST system or UST system component and to install another UST
22 system or UST system component in its place.
- 23 ~~(8)(11)~~ "UST system component or tank system component" means any part of an UST system.
- 24
- 25 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*
26 *Eff. January 1, 1991;*
27 *Temporary Amendment Eff. January 7, 1991 For a Period of 180 Days to Expire on July 6, 1991;*
28 *Temporary Amendment Expired July 6, 1991;*
29 *Amended Eff. June 1, 2017; November 1, ~~2007-2007;~~*
30 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0301 is is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0301 PERFORMANCE STANDARDS FOR UST SYSTEM INSTALLATIONS OR**
4 **REPLACEMENTS COMPLETED AFTER DECEMBER 22, 1988 AND BEFORE**
5 **NOVEMBER 1, 2007**

6 (a) The regulations governing "Performance standards for new UST systems" set forth in 40 CFR 280.20 (Subpart B)
7 are hereby incorporated by ~~reference,~~reference excluding any subsequent amendments and editions, except that:

8 (1) 40 CFR 280.20(a)(4) shall not be incorporated by reference;

9 (2) 40 CFR 280.20(b)(3) shall not be incorporated by reference;~~and~~

10 (3) UST system or UST system component installations or replacements completed on or after
11 November 1, 2007, shall also meet the requirements of Section .0900 of this ~~Subchapter.~~Subchapter;
12 and

13 (4) Note to Paragraph (d) of 40 CFR 280.20 is amended to include Petroleum Equipment Institute
14 Publication RP1000, "Recommended Practices for the Installation of Marina Fueling Systems."

15 (b) No UST system shall be installed within 100 feet of a well serving a public water system, as defined in G.S. 130A-
16 313(10), or within 50 feet of any other well supplying water for human consumption.

17 (c) An UST system existing on January 1, 1991, and located within the area described in Paragraph (b) of this Rule
18 may be replaced with a new tank meeting the performance standards of 40 CFR 280.20 and the secondary containment
19 provisions of 40 CFR 280.42(a) through (d). The replacement UST system shall not be located nearer to the water
20 supply source than the UST system being replaced.

21 (d) Except as prohibited in Paragraph (b) of this Rule, an UST system shall meet the requirements for secondary
22 containment described at 40 CFR 280.42(a) through (d):

23 (1) Within 500 feet of a well serving a public water supply or within 100 feet of any other well supplying
24 water for human consumption; or

25 (2) Within 500 feet of any surface water classified as High Quality ~~Water (HQW); Waters (HQW);~~
26 ~~Outstanding Resource water (ORW); Waters (ORW); WS-I, WS-II or SA.~~Water Supply I – Natural
27 (WS-I); Water Supply II – Undeveloped (WS-II); Market Shellfishing, Salt Water (SA).

28 (e) An UST system or UST system component installation completed on or after November 1, 2007, to replace an
29 UST system or UST system component located within the areas described in Paragraphs (b), (c), or (d) of this Rule
30 shall meet the requirements of Section .0900 of this Subchapter.

31 ~~(f) 40 CFR 280.20 Note to paragraph (d) is amended to include Petroleum Equipment Institute Publication RP1000,~~
32 ~~"Recommended Practices for the Installation of Marina Fueling Systems."~~

33
34 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

35 *Eff. January 1, 1991;*

36 *Amended Eff. June 1, 2017; November 1, ~~2007-2007;~~*

37 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0302

DEADLINE FOR RECEIPT: December 11, 2020

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

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

In (a)(2), please capitalize "Paragraph" and place the "b" in parentheses – Paragraph(b)(1)(ii)(C).

Is (c) still necessary given the 1991 date?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02N .0302 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0302 UPGRADING OF EXISTING UST SYSTEMS AFTER DECEMBER 22, 1998 AND**
4 **BEFORE NOVEMBER 1, 2007**

5 (a) The regulations governing "Upgrading of existing UST systems" set forth in 40 CFR 280.21 (Subpart B) are
6 hereby incorporated by ~~reference,~~reference excluding any subsequent amendments and editions, except that:

7 (1) existing UST systems located within the areas described in Rule .0301(b) and (d) of this Section
8 shall be upgraded in accordance with the provisions of 40 CFR 280.21(b) through (d) and shall be
9 provided with secondary containment as described in 40 CFR 280.42(a) through (d). An UST system
10 upgraded shall not be located nearer to a source of drinking water supply than its location prior to
11 being upgraded; and

12 (2) 40 CFR 280.21 Note to paragraph b(1)(ii)(C) shall not be incorporated by reference.

13 (b) Owners and operators shall submit notice of the upgrading of any UST system conducted in accordance with the
14 requirements of 40 CFR 280.21 to the Division, within 30 days following completion of the upgrading activity. The
15 notice shall include form "UST-8 Notification of Activities Involving Underground Storage Tank Systems," which is
16 set forth in Rule .0303(1)(b) of this Section.

17 (c) UST systems upgraded in accordance with 40 CFR 280.21 prior to January 1, 1991, are in compliance with this
18 Rule.

19 (d) An UST system or UST system component installation completed on or after November 1, 2007, to upgrade or
20 replace an UST system or UST system component described in Paragraph (a) of this Rule shall meet the performance
21 standards of Section .0900 of this Subchapter.

22
23 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*
24 *Eff. January 1, 1991;*
25 *Amended Eff. June 1, 2017; November 1, ~~2007-2007;~~*
26 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0303

DEADLINE FOR RECEIPT: December 11, 2020

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

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

Is (2), is this still a requirement? At line 31, should the Rule say "are required" instead of "were required?" If it is not still a requirement, why is it still necessary?

In (3), is it still necessary to say "beginning October 24, 1988?"

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02N .0303 is readopted with changes as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0303 NOTIFICATION REQUIREMENTS**

4 The regulations governing "Notification requirements" set forth in 40 CFR 280.22 (Subpart B) are hereby incorporated
5 by ~~reference,~~reference excluding any subsequent amendments and editions, except that:

6 (1) Owners and operators of an UST system shall submit to the Division, on forms provided by the
7 Division, a notice of intent to conduct any of the following activities:

8 (a) notice of installation of a new UST system or UST system component shall be in
9 accordance with Rule .0902 of this Subchapter;

10 (b) notice of installation of a leak detection device installed outside of the outermost wall of
11 the tank and piping, such as vapor detection or groundwater monitoring devices, shall be
12 given at least 30 days before the activity begins. The notice shall be provided on form
13 "UST-8 Notification of Activities Involving Underground Storage Tank Systems," which
14 may be accessed free of charge at [http://deq.nc.gov/about/divisions/waste-](http://deq.nc.gov/about/divisions/waste-management/underground-storage-tanks-section/forms)
15 [management/underground-storage-tanks-section/forms](http://deq.nc.gov/about/divisions/waste-management/underground-storage-tanks-section/forms). Form "UST-8 Notification of
16 Activities Involving Underground Storage Tank Systems" shall include:

17 (i) the same information provided in Appendix I to 40 CFR 280, except that Sections
18 X (2) and (3), and Section XI shall not be included on the form;

19 (ii) operator identification and contact information;

20 (iii) number of tank compartments and tank compartment identity, capacity, and
21 product stored;

22 (iv) identity of tanks that are manifold together with piping;

23 (v) stage I Vapor Recovery equipment type and installation date;

24 (vi) corrosion protection methods for metal flexible connectors, submersible pumps,
25 and riser pipes;

26 (vii) UST system and UST system component installation date, manufacturer, model,
27 and leak detection monitoring method;

28 (viii) spill containment equipment installation date, manufacturer, model, and leak
29 detection monitoring method;

30 (ix) overfill prevention equipment installation date, manufacturer, and model; and

31 (x) leak detection equipment manufacturer and model;

32 (c) notice of permanent closure or change-in-service of an UST system shall be given at least
33 30 days before the activity begins, ~~unless a North Carolina Professional Engineer or North~~
34 ~~Carolina Licensed Geologist retained by the owner or operator to provide professional~~
35 ~~services for the tank closure or change in service submits the notice. A North Carolina~~
36 ~~Professional Engineer or North Carolina Licensed Geologist may submit the notice at least~~
37 ~~five business days before the activity begins.~~begins. The notice shall be provided on form

"UST-3 Notice of Intent: UST Permanent Closure or Change-in-Service," which may be accessed free of charge at <http://deq.nc.gov/about/divisions/waste-management/underground-storage-tanks-section/forms>. Form "UST-3 Notice of Intent: UST Permanent Closure or Change-in-Service" shall include:

- (i) owner identification and contact information;
- (ii) site location information;
- (iii) site contact information;
- (iv) contractor and consultant identification and contact information;
- (v) identity of UST systems to be permanently closed or that will undergo a change-in-service;
- (vi) for permanent closure, the proposed method of UST System closure – removal or fill in-place;
- (vii) for a change-in-service, the new contents to be stored;
- (viii) proposed UST system closure or change-in-service date; and
- (ix) signature of UST system owner;

(d) notice of a change of ownership of a UST system pursuant to 40 CFR 280.22(b) shall be provided on form "UST-15 Change of Ownership of UST System(s)," which may be accessed free of charge at <http://deq.nc.gov/about/divisions/waste-management/underground-storage-tanks-section/forms>. Form "UST-15 Change of Ownership of UST System(s)" shall include:

- (i) the same information provided in Appendix II to 40 CFR 280;
- (ii) site location information;
- (iii) notarized signature of the new owner of an UST system;
- (iv) name and notarized signature of the previous owner of an UST system; and
- (v) appended information shall include documentation of an UST system ownership transfer such as a property deed or bill of sale and for a sale. A person signing the form on behalf of another, another shall provide documentation they can legally sign in such capacity, such as an officer of a corporation, administrator of an estate, representative of a public agency, or as having power of attorney, documentation showing that the person can legally sign in such capacity-attorney.

(2) Owners and operators of UST systems that were in the ground on or after May 8, 1986, were required to notify the Division in accordance with the Hazardous and Solid Waste Amendments of 1984, Public Law 98-616, on a form published by the Environmental Protection Agency on November 8, 1985 (50 FR 46602) 46602, (50 FR 46602), unless notice was given pursuant to Section 103(c) of CERCLA. Owners or operators who have not complied with the notification requirements shall complete the appropriate form "UST-8 Notification of Activities Involving Underground Storage Tank Systems" and submit the form to the Division.

1 (3) Beginning October 24, 1988, any person who sells a tank intended to be used as an UST shall notify
2 the purchaser of such tank of the owner's notification obligations under Item (1) of this Rule.

3 (4) Any reference in 40 CFR Part 280 to the notification form in Appendix I shall refer to the North
4 Carolina notification form "UST-8 Notification of Activities Involving Underground Storage Tank
5 ~~Systems~~"-Systems."

6
7 *History Note:* Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6~~;
8 Eff. January 1, 1991;
9 Amended Eff. June 1, ~~2017~~; 2017;
10 Readopted Eff. January 1, 2021.

1 15A NCAC 02N .0304 is is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0304 IMPLEMENTATION SCHEDULE FOR PERFORMANCE STANDARDS FOR**
4 **NEW UST SYSTEMS AND UPGRADING REQUIREMENTS FOR EXISTING**
5 **UST SYSTEMS LOCATED IN AREAS DEFINED IN RULE .0301(d)**

6 (a) The following implementation schedule shall apply only to owners and operators of UST systems located within
7 areas described in Rule .0301(d) of this Section. This implementation schedule shall govern tank owners and operators
8 in complying with the secondary containment requirements set forth in Rule .0301(d) of this Section for new UST
9 systems and the secondary containment requirements set forth in Rule .0302(a) of this Section for existing UST
10 systems.

- 11 (1) All new UST systems and replacements to an UST system shall be provided with secondary
12 containment as of April 1, 2001.
- 13 (2) All steel or metal connected piping and ancillary equipment of an UST, regardless of date of
14 installation, shall be provided with secondary containment as of January 1, 2005.
- 15 (3) All fiberglass or non-metal connected piping and ancillary equipment of an UST, regardless of date
16 of installation, shall be provided with secondary containment as of January 1, 2008.
- 17 (4) All UST systems installed on or before January 1, 1991 shall be provided with secondary
18 containment as of January 1, 2008.
- 19 (5) All USTs installed after January 1, 1991, and prior to April 1, 2001, shall be provided with secondary
20 containment as of January 1, 2020. Owners of USTs located within 100 to 500 feet of a public water
21 supply well, if the well serves only a single facility and is not a community water system, may seek
22 a variance in accordance with Paragraphs (d) through (i) of this Rule.

23 (b) All owners and operators of UST systems shall implement the following enhanced leak detection monitoring as
24 of April 1, 2001. The enhanced leak detection monitoring shall consist of the following:

- 25 (1) An automatic tank gauging system for each UST;
- 26 (2) An electronic line leak detector for each pressurized piping system;
- 27 (3) One 0.1 gallon per hour (gph) test per month or one 0.2 gph test per week on each UST system;
- 28 (4) A line tightness test capable of detecting a leak rate of 0.1 gph, once per year for each suction piping
29 system. No release detection shall be required for suction piping that is designed and constructed in
30 accordance with 40 CFR 280.41(b)(1)(ii)(A) through (E);
- 31 (5) If the UST system is located within 500 feet of a public water supply well or within 100 feet of any
32 other well supplying water for human consumption, owners or operators shall sample the water
33 supply well ~~at least~~ once per year. The sample collected from the well shall be characterized in
34 accordance with:
 - 35 (A) Standard Method 6200B, Volatile Organic Compounds Purge and Trap Capillary-Column
36 Gas Chromatographic/Mass Spectrometric Method, which is incorporated by reference
37 including subsequent amendments and editions, and may be obtained at

- 1 <http://www.standardmethods.org/> at a cost of ~~sixty-nine dollars (\$69.00);~~seventy-five
2 dollars (\$75.00);
- 3 (B) EPA Method ~~625.625.1~~, Base/Neutrals and Acids, which is incorporated by reference
4 including subsequent amendments and editions, and may be accessed free of charge at
5 [http://water.epa.gov/scitech/methods/cwa/organics/upload/2007_07_10_methods_method](http://water.epa.gov/scitech/methods/cwa/organics/upload/2007_07_10_methods_method_organics_625.pdf)
6 [_organics_625.pdf](http://water.epa.gov/scitech/methods/cwa/organics/upload/2007_07_10_methods_method_organics_625.pdf); and
- 7 (C) If a waste oil UST system is present that does not meet the requirements for secondary
8 containment in accordance with 40 CFR 280.42(b)(1) through (4), the sample shall also be
9 analyzed for lead and chromium using Method ~~6010C, 6010D~~, Inductively Coupled
10 ~~Plasma-Atomic~~ Plasma-Optical Emission Spectrometry, which is incorporated by
11 reference including subsequent amendments and editions, and may be accessed free of
12 charge at <http://www.epa.gov/epawaste/hazard/testmethods/sw846/pdfs/6010c.pdf>
13 <https://www.epa.gov/sites/production/files/2015-12/documents/6010d.pdf> or Method
14 ~~6020A, 6020B~~, Inductively Coupled Plasma-Mass Spectrometry, which is incorporated by
15 reference including subsequent amendments and editions, and may be accessed free of
16 charge at <http://www.epa.gov/epawaste/hazard/testmethods/sw846/pdfs/6020a.pdf>;
17 <https://www.epa.gov/sites/production/files/2015-12/documents/6020b.pdf>; and
- 18 (6) The first sample collected in accordance with Subparagraph (b)(5) of this Rule shall be collected
19 and the results received by the Division by October 1, 2000, and yearly thereafter.
- 20 (c) An UST system or UST system component installation completed on or after November 1, 2007, to upgrade or
21 replace an UST system or UST system component as required in Paragraph (a) of this Rule shall meet the performance
22 standards of Section .0900 of this Subchapter.
- 23 (d) The Environmental Management Commission may grant a variance from the secondary containment requirements
24 in Subparagraph (a)(5) of this Rule for USTs located within 100 to 500 feet of a public water supply well if the well
25 serves only a single facility and is not a community water system. Any request for a variance shall be in writing by
26 the owner of the UST for which the variance is sought. The request for variance shall be submitted to the Director,
27 Division of Waste Management, 1646 Mail Service Center, Raleigh, NC 27699-1646. The Environmental
28 Management Commission shall grant the variance if the Environmental Management Commission finds facts to
29 support the following conclusions:
- 30 (1) The variance will not endanger human health and welfare or groundwater; and
31 (2) UST systems are operated and maintained in compliance with 40 CFR Part 280, Article 21A of G.S.
32 143B, and the rules in this Subchapter.
- 33 (e) The Environmental Management Commission may require the variance applicant to submit such information as
34 the Environmental Management Commission deems necessary to make a decision to grant or deny the variance.
35 Information that may be requested includes the following:
- 36 (1) Water supply well location, depth, construction specifications, and sampling results;
37 (2) Groundwater depth and flow direction; and

- 1 (3) Leak detection monitoring and testing results.
- 2 (f) The Environmental Management Commission may impose such conditions on a variance as the Environmental
- 3 Management Commission deems necessary to protect human health and welfare and groundwater. Conditions for a
- 4 variance may include the following:
- 5 (1) Increased frequency of leak detection and leak prevention monitoring and testing;
- 6 (2) Periodic water supply well sampling; and
- 7 (3) Increased reporting and recordkeeping.
- 8 (g) The findings of fact supporting any variance under this Rule shall be in writing and made part of the variance.
- 9 (h) The Environmental Management Commission may rescind a variance that was previously granted if the
- 10 Environmental Management Commission discovers through inspection or reporting that the conditions of the variance
- 11 are not met or that the facts no longer support the conclusions in Subparagraphs (d)(1) and (2) of this Rule.
- 12 (i) An owner of an UST system who is aggrieved by a decision of the Environmental Management Commission to
- 13 deny or rescind a variance or to conditionally grant a variance may commence a contested case by filing a petition
- 14 pursuant to G.S. 150B-23 within 60 days after receipt of the decision.

15

16 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h);*

17 *Temporary Adoption Eff. May 1, 2000;*

18 *Eff. April 1, 2001;*

19 *Amended Eff. June 1, 2017; June 1, 2015; November 1, ~~2007~~2007;*

20 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0401 is is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0401 SPILL AND OVERFILL CONTROL**

4 The regulations governing "Spill and overfill control" set forth in 40 CFR 280.30 (Subpart C) are hereby incorporated
5 by ~~reference.~~reference excluding any subsequent amendments and editions.

6
7 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

8 *Eff. January 1, 1991;*

9 *Amended Eff. June 1, ~~2017~~2017;*

10 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0402 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0402 OPERATION AND MAINTENANCE OF CORROSION PROTECTION**

4 The regulations governing "Operation and maintenance of corrosion protection" set forth in 40 CFR 280.31 (Subpart
5 C) are hereby incorporated by ~~reference.~~reference excluding any subsequent amendments and editions.

6
7 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

8 *Eff. January 1, 1991;*

9 *Amended Eff. June 1, ~~2017~~ 2017;*

10 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0403 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0403 COMPATIBILITY**

4 The regulations governing "Compatibility" set forth in 40 CFR 280.32 (Subpart C) are hereby incorporated by
5 ~~reference.~~reference excluding any subsequent amendments and editions.

6
7 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

8 *Eff. January 1, 1991;*

9 *Amended Eff. June 1, ~~2017~~2017;*

10 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0404 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0404 REPAIRS ALLOWED**

4 The regulations governing "Repairs Allowed" set forth in 40 CFR 280.33 (Subpart C) are hereby incorporated by
5 ~~reference, reference excluding any subsequent amendments and editions,~~ except that the first sentence of 40 CFR
6 280.33(d) shall be read: "Repairs to secondary containment areas of tanks and piping used for interstitial monitoring
7 and to containment sumps used for interstitial monitoring of piping shall have the secondary containment tested for
8 tightness as directed by the Division within 30 days following the date of completion of the repair." When determining
9 the required test method, the Division may consider the following:

- 10 (1) installation date of the repaired UST system component;
11 (2) test methods that are third-party certified as being capable of detecting a 0.10 gallon per hour leak
12 rate with a probability of detection (Pd) of at least 95 percent and a probability of false alarm (Pfa)
13 of no more than 5 percent;
14 (3) codes of practice developed by a nationally recognized association;
15 (4) written manufacturer's guidelines for installation testing and testing after repairs are conducted; and
16 (5) test methods developed by an independent laboratory.

17
18 *History Note:* Authority *G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*
19 *Eff. January 1, 1991;*
20 *Amended Eff. June 1, ~~2017~~; 2017;*
21 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0405 is readopted with changes as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0405 REPORTING AND RECORDKEEPING**

4 (a) The regulations governing "Reporting and recordkeeping" set forth in 40 CFR 280.34 (Subpart C) are hereby
5 incorporated by ~~reference~~reference excluding any subsequent amendments and editions.

6 (b) Owners and operators shall submit to the Division, within 30 days following completion, results of the site
7 investigation conducted:

8 (1) at permanent closure or change-in-service. The results of the site investigation for permanent closure
9 or change-in-service shall be reported in a format that includes the following:

10 (A) site location information;

11 (B) identification and contact information for the owner, operator, property owner, consultant,
12 contractor, and analytical laboratory;

13 (C) the same information provided in Appendix I to 40 CFR Part 280, Section X;

14 (D) information about any release discovered, including discovery date, estimated quantity of
15 petroleum or hazardous substance released, and the cause and source;

16 (E) information about any previous releases at the site, including owner or operator at the time
17 of the release, source, cause, and location relative to the current release;

18 (F) description of site characteristics, such as use of the site and surrounding area, drinking
19 water supplies, presence and location of water supply wells and surface water, depth to and
20 nature of bedrock, depth to groundwater, and direction of groundwater flow;

21 (G) date of permanent closure or change-in-service of an UST system and last contents stored;

22 (H) procedures and methods used to clean an UST system prior to permanent closure or
23 change-in-service;

24 (I) procedures and methods used to permanently close an UST system;

25 (J) description of condition of tank, piping, and dispenser;

26 (K) documentation of disposal of tank and its contents;

27 (L) description of condition of excavation, volume of soil excavation, soil type encountered,
28 type and source of backfill used, and any groundwater, free product, or bedrock
29 encountered in the excavation;

30 (M) method of temporary storage, sampling, and treatment or disposal of excavated soil;

31 (N) procedures and methods used for sample collection, field screening, and laboratory
32 analysis;

33 (O) quality assurance and quality control procedures and methods for decontamination of field
34 and sampling equipment and for sample handling, preservation, and transportation;

35 (P) field screening results and analytical results for samples collected, comparison of analytical
36 results to standards set forth in 15A NCAC 02L, and the presence and quantity of any free
37 product; and

- (Q) maps and figures showing the site and surrounding topography, current and former UST system locations, surface water, water supply wells, monitoring wells, types and locations of samples, analytical results for samples, ground water flow direction, geologic boring logs, and monitoring well construction specifications; or
- (2) to ~~insure~~ensure compliance with the requirements for installation of vapor monitoring and groundwater monitoring devices, as specified in 40 CFR 280.43(e)(1) through (e)(4) and 280.43(f)(1) through (f)(5), respectively. The site investigation shall be conducted in accordance with Rule .0504 of this Subchapter.
- (c) Owners shall submit to the Division, on forms provided by the Division and within 30 days following completion:
- (1) A description of the upgrading of any UST system conducted in accordance with requirements of 40 CFR 280.21. The description of upgrading shall be provided on form "UST-8 Notification of Activities Involving Underground Storage Tank Systems," which is set forth in Rule .0303(1)(b) of this Section;
- (2) Certification of the proper operation of a corrosion protection system upon completion of testing in compliance with 40 CFR 280.31; and
- (A) Certification of proper operation and testing of a galvanic corrosion protection system shall be provided on form "UST-7A Cathodic Protection System Evaluation for Galvanic (Sacrificial Anode) Systems," which may be accessed free of charge at <http://deq.nc.gov/about/divisions/waste-management/underground-storage-tanks-section/forms>. Form "UST-7A Cathodic Protection System Evaluation for Galvanic (Sacrificial Anode) Systems" shall include:
- (i) owner identification and contact information;
- (ii) site location information;
- (iii) reason that a corrosion protection system was evaluated, including a routine test within six months of corrosion protection system installation, a routine test every three years following corrosion protection system installation, or a test following a repair or modification;
- (iv) corrosion protection tester's name, contact information, corrosion protection tester certification number, certifying organization, and certification type;
- (v) corrosion protection tester's evaluation, including pass, fail, or inconclusive;
- (vi) corrosion expert's name, address, contact information, National Association of ~~corrosion~~Corrosion Engineers International Institute certification number, and certification type or Professional Engineer number, state, and specialty;
- (vii) corrosion expert's evaluation, including pass or fail;
- (viii) criteria for evaluation, including 850 millivolt on, 850 millivolt instant off, or 100 millivolt polarization;
- (ix) action required as a result of the evaluation, including none, or repair and retest;

- (x) description of UST system, including tank identity, product stored, tank capacity, tank and piping construction material, and presence of metal flexible connectors;
 - (xi) description of any repair or modification made to the corrosion protection system;
 - (xii) site drawing, including the UST systems, on-site buildings, adjacent streets, anodes and wires, reference electrode placement, and test stations;
 - (xiii) corrosion protection continuity survey, including location of fixed remote reference electrode placement, structures evaluated using fixed remote instant-off voltages or point-to-point voltage differences, and if structures are continuous or isolated; and
 - (xiv) corrosion protection system survey, including locations of remote reference electrode, structure evaluated, structure contact point, local reference cell placement, local voltage, remote voltage, and if tested structure passed, failed, or was inconclusive relative to the criteria for evaluation.
- (B) Certification of proper operation and testing of an impressed current corrosion protection system shall be provided on form "UST-7B Cathodic Protection System Evaluation for Impressed Current Systems," which may be accessed free of charge at <http://deq.nc.gov/about/divisions/waste-management/underground-storage-tanks-section/forms>. Form "UST-7B Cathodic Protection System Evaluation for Impressed Current Systems" shall include:
- (i) owner identification and contact information;
 - (ii) site location information;
 - (iii) reason that a corrosion protection system was evaluated, including a routine test within six months of corrosion protection system installation, a routine test every three years following corrosion protection system installation, or a test following a repair or modification;
 - (iv) corrosion protection tester's name, contact information, corrosion protection tester certification number, certifying organization, and certification type;
 - (v) corrosion protection tester's evaluation, including pass, fail, or inconclusive;
 - (vi) corrosion expert's name, address, contact information, National Association of ~~corrosion~~Corrosion Engineers International Institute certification number, and certification type or Professional Engineer number, state, and specialty;
 - (vii) corrosion expert's evaluation, including pass or fail;
 - (viii) criteria for evaluation, including 850 millivolt instant off or 100 millivolt polarization;
 - (ix) action required as a result of the evaluation, including none or repair and retest;
 - (x) description of UST system, including tank identity, product stored, tank capacity, tank and piping construction material, and presence of metal flexible connectors;

- (xi) impressed current rectifier data, including rectifier manufacturer, model, serial ~~number~~~~number~~, rated DC output, shunt size, shunt factor, hour meter, tap settings, DC output (gauge), and DC output (multimeter);
- (xii) impressed current positive and negative circuit measurements;
- (xiii) description of any repair or modifications made to the corrosion protection system;
- (xiv) site drawing, including the UST systems, on-site buildings, adjacent streets, anodes and wires, reference electrode placement, and test stations;
- (xv) corrosion protection continuity survey, including location of fixed remote reference electrode placement, structures evaluated using fixed remote instant-off voltages or point-to-point voltage differences, and if structures are continuous or isolated; and
- (xvi) corrosion protection system survey, including structure evaluated, structure contact point, reference cell placement, on voltage, instant off voltage, 100 millivolt polarization ending voltage and voltage change, and if the tested structure passed or failed relative to the criteria for evaluation.
- (3) Certification of compliance with the requirements for leak detection specified in 40 CFR 280.40, 40 CFR 280.41, 40 CFR 280.42, 40 CFR 280.43, and 40 CFR 280.44. The certification shall specify the leak detection method and date of compliance for each UST. The certification of compliance with leak detection requirements shall be provided on form "UST-8 Notification of Activities Involving Underground Storage Tank Systems," which is set forth in Rule .0303(1)(b) of this ~~Section~~~~Subchapter~~.

History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6~~;
Eff. January 1, 1991;
Amended Eff. June 1, ~~2017~~2017;
Readopted Eff. January 1, 2021.

1 15A NCAC 02N .0406 is amended as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0406 PERIODIC TESTING OF SPILL PREVENTION EQUIPMENT AND**
4 **CONTAINMENT SUMPS USED FOR INTERSTITIAL MONITORING OF**
5 **PIPING AND PERIODIC INSPECTION OF OVERFILL PREVENTION**
6 **EQUIPMENT**

7 The regulations governing "Periodic testing of spill prevention equipment and containment sumps used for interstitial
8 monitoring of piping and periodic inspection of overfill prevention equipment" set forth in 40 CFR 280.35 (Subpart
9 C) are hereby incorporated by ~~reference, reference excluding any subsequent amendments and editions, except that~~
10 that:

11 (1) UST system or UST system component installations or replacements completed on or after November 1,
12 2007, shall meet the requirements of Section .0900 of this Subchapter.

13 (2) 40 CFR 280.35(a)(1)(ii)(C) shall be rewritten as follows: (C) Requirements determined by the Division to be
14 no less protective of human health and the environment than the requirements listed in Paragraphs
15 (a)(1)(ii)(A) and (B) of this section.

16
17 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

18 *Eff. June 1, ~~2017~~ 2017;*

19 *Amended Eff. January 1, 2021.*

1 15A NCAC 02N .0501 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0501 GENERAL REQUIREMENTS FOR ALL UST SYSTEMS**

4 The regulations governing "General requirements for all UST systems" set forth in 40 CFR 280.40 (Subpart D) are
5 hereby incorporated by ~~reference~~reference excluding any subsequent amendments and editions.

6
7 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

8 *Eff. January 1, 1991;*

9 *Amended Eff. June 1, ~~2017~~2017;*

10 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0502 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0502 REQUIREMENTS FOR PETROLEUM UST SYSTEMS**

4 The regulations governing "Requirements for petroleum UST systems" set forth in 40 CFR 280.41 (Subpart D) are
5 hereby incorporated by ~~reference, reference excluding any subsequent amendments and editions,~~ except that UST
6 systems located within areas described in Rule .0301(d) of this Subchapter shall meet the requirements for secondary
7 containment described at 40 CFR 280.42(a) through (d) if the UST system installation or replacement was completed
8 before November 1, 2007. UST system or UST system component installations or replacements completed on or after
9 November 1, 2007, shall meet the secondary containment requirements of Section .0900 of this Subchapter.

10
11 *History Note:* Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~

12 *Eff. January 1, 1991;*

13 *Amended Eff. June 1, 2017; November 1, ~~2007~~ 2007;*

14 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0503 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0503 REQUIREMENTS FOR HAZARDOUS SUBSTANCE UST SYSTEMS**

4 The regulations governing "Requirements for hazardous substance UST systems" set forth in 40 CFR 280.42 (Subpart
5 D) are hereby incorporated by ~~reference, reference excluding any subsequent amendments and editions,~~ except that
6 hazardous substance UST systems or UST system components installed or replacements completed on or after
7 November 1, 2007, shall meet the secondary containment requirements of Section .0900 of this Subchapter.

8
9 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

10 *Eff. January 1, 1991;*

11 *Amended Eff. June 1, 2017; November 1, ~~2007, 2007;~~*

12 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0504 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0504 METHODS OF RELEASE DETECTION FOR TANKS**

4 (a) The regulations governing "Methods of release detection for tanks" set forth in 40 CFR 280.43 (Subpart D) are
5 hereby incorporated by ~~reference, reference excluding any subsequent amendments and editions,~~ except that 40 CFR
6 280.43(f)(3), (f)(4), and (f)(5) shall not be adopted by reference.

7 (b) Wells used for monitoring or testing for free product in the groundwater shall be:

8 (1) ~~Located as follows:~~located

9 (A) ~~for new installations, within and at the end of the excavation having the lowest elevation~~
10 ~~and along piping at intervals not exceeding 50 feet; or~~

11 (B) ~~for existing installations,~~ in the excavation zone or as near to it as technically feasible and
12 installed in a borehole at least four inches larger than the diameter of the casing;

13 (2) ~~A~~a minimum of two inches in ~~diameter~~diameter;

14 (3) ~~The number of wells installed shall be sufficient to detect releases from the UST system; installed~~
15 ~~such that a release from any portion of the UST will be detected;~~

16 (3)(4) ~~Equipped~~equipped with a screen that extends from two feet below land surface to a depth of 20 feet
17 below land surface or two feet below the seasonal low water level, whichever is shallower. The
18 screen shall be designed and installed to prevent the migration of natural soils or filter pack into the
19 well while allowing the entry of regulated substances into the well under both high and low
20 groundwater level conditions;

21 (4)(5) ~~Surrounded~~surrounded with clean sand or gravel to the top of the screen, plugged and grouted the
22 remaining distance to finished grade with cement grout;

23 (5)(6) ~~Constructed~~constructed of a permanent casing and screen material that is inert to the stored
24 substance and is corrosion resistant;

25 (6)(7) ~~Developed~~developed upon completion of installation until the water is clear and sediment free;

26 (7)(8) ~~Protected~~protected with a water-tight cover and lockable cap;

27 (8)(9) ~~Labeled~~labeled as a liquid monitor well; and

28 (9)(10) ~~Equipped~~equipped with a liquid leak detection device ~~continuously~~ operating on an uninterrupted
29 basis; or

30 (A) For tanks storing petroleum products, tested at least once every 14 days with a device or
31 hydrocarbon-sensitive paste capable of detecting the liquid stored; or

32 (B) For tanks storing hazardous substances, sampled and tested at least once every 14 days for
33 the presence of the stored substance.

34 (c) Wells used for monitoring or testing for free product in the groundwater at new installations and constructed in
35 accordance with Paragraph (b) of this Rule shall be deemed to be permitted in accordance with the requirements of
36 15A NCAC 02C .0105.

1 (d) Any person completing or abandoning any well used for testing of vapors or monitoring for free product in the
2 groundwater shall submit the ~~record-report~~ required by 15A NCAC 02C .0114(b).

3 (e) Wells used for monitoring for the presence of vapors in the soil gas of the excavation zone shall be equipped with
4 a ~~continuously operating~~ vapor detection device operating on an uninterrupted basis or tested at least once every 14
5 days for vapors of the substance stored.

6
7 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

8 *Eff. January 1, 1991;*

9 *Amended Eff. June 1, ~~2017~~ 2017;*

10 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0505 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0505 METHODS OF RELEASE DETECTION FOR PIPING**

4 The regulations governing "Methods of release detection for piping" set forth in 40 CFR 280.44 (Subpart D) are hereby
5 incorporated by ~~reference~~reference excluding any subsequent amendments and editions.

6
7 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

8 *Eff. January 1, 1991;*

9 *Amended Eff. June 1, ~~2017~~2017;*

10 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0506 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0506 RELEASE DETECTION RECORDKEEPING**

4 The regulations governing "Release detection recordkeeping" set forth in 40 CFR 280.45 (Subpart D) are hereby
5 incorporated by ~~reference.~~reference excluding any subsequent amendments and editions.

6
7 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

8 *Eff. January 1, 1991;*

9 *Amended Eff. June 1, ~~2017~~ 2017;*

10 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0601 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0601 REPORTING OF SUSPECTED RELEASES**

4 The regulations governing "Reporting of suspected releases" set forth in 40 CFR 280.50 (Subpart E) are hereby
5 incorporated by ~~reference,~~reference excluding any subsequent amendments and editions. except that the words "or
6 another reasonable period specified by the implementing agency," shall be deleted from the first sentence.

7
8 *History Note:* *Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

9 *Eff. January 1, 1991;*

10 *Amended Eff. June 1, ~~2017,~~2017;*

11 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0602 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0602 INVESTIGATION DUE TO OFF-SITE IMPACTS**

4 The regulations governing "Investigation due to off-site impacts" set forth in 40 CFR 280.51 (Subpart E) are hereby
5 incorporated by ~~reference.~~reference excluding any subsequent amendments and editions.

6
7 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

8 *Eff. January 1, 1991;*

9 *Amended Eff. June 1, ~~2017~~2017;*

10 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0603 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0603 RELEASE INVESTIGATION AND CONFIRMATION STEPS**

4 The regulations governing "Release investigation and confirmation steps" set forth in 40 CFR 280.52 (Subpart E) are
5 hereby incorporated by ~~reference, reference excluding any subsequent amendments and editions.~~ except that in 40 CFR
6 280.52 the words "or another reasonable time period specified by the implementing agency" shall not be adopted by
7 reference. Upon written request, the Division may grant additional time to investigate and confirm suspected releases
8 as specified in 40 CFR 280.53. The request shall be made to the Division prior to the expiration of the required time
9 period. When considering such a request, the Division may consider factors as follows:

- 10 (1) the extent to which the request for additional time is due to factors outside of the control of the tank
11 owner or operator;
12 (2) the previous history of the tank owner or operator submitting the report in complying with deadlines
13 established under the Commission's rules;
14 (3) the technical complications associated with investigating and confirming suspected releases; and
15 (4) the necessity for action to eliminate an imminent threat to public health or the environment.
16

17 *History Note:* Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~
18 Eff. January 1, 1991;
19 Amended Eff. June 1, ~~2017~~; 2017;
20 Readopted Eff. January 1, 2021.

1 15A NCAC 02N .0604 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0604 REPORTING AND CLEANUP OF SPILLS AND OVERFILLS**

4 The regulations governing "Reporting and cleanup of spills and overfills" set forth in 40 CFR 280.53 (Subpart E) are
5 hereby incorporated by ~~reference, reference excluding any subsequent amendments and editions,~~ except that:

- 6 (1) ~~In~~ 40 CFR 280.53(a) the words "or another reasonable time period specified by the implementing
7 agency" shall not be adopted by reference;
- 8 (2) ~~In~~ 40 CFR 280.53(b) the words "or another reasonable time period established by the
9 implementing agency" shall not be adopted by reference;
- 10 (3) ~~In~~ 40 CFR 280.53(a)(1) and (b), the words, "or another reasonable amount specified by the
11 implementing agency" shall not be adopted by reference; and
- 12 (4) ~~Upon~~ upon written request, the Division may grant additional time to submit the reports specified in
13 40 CFR 280.53. The request shall be made to the Division prior to the expiration of the required
14 time period. When considering such a request, the Division may consider factors as follows:
- 15 (a) the extent to which the request for additional time is due to factors outside of the control
16 of the tank owner or operator;
- 17 (b) the previous history of the tank owner or operator submitting the report in complying with
18 deadlines established under the Commission's rules;
- 19 (c) the technical complications associated with reporting and cleanup of spills and overfills;
20 and
- 21 (d) the necessity for action to eliminate an imminent threat to public health or the environment.

22
23 *History Note:* Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~
24 Eff. January 1, 1991;
25 Amended Eff. June 1, ~~2017~~; 2017;
26 Readopted Eff. January 1, 2021.

1 15A NCAC 02N .0701 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0701 GENERAL**

4 (a) The regulations governing "General" set forth in 40 CFR 280.60 (Subpart F) are hereby incorporated by reference.

5 (b) Any corrective action undertaken in accordance with this Section shall meet the requirements and standards
6 specified in 15A NCAC 02L.

7
8 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

9 *Eff. January 1, 1991;*

10 *Amended Eff. September 1, 1992;*

11 *Temporary Amendment Eff. January 2, 1998;*

12 *Amended Eff. June 1, 2017; October 29, ~~1998~~, 1998;*

13 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0702 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0702 INITIAL RESPONSE**

4 The regulations governing "Initial response" set forth in 40 CFR 280.61 (Subpart F) are hereby incorporated by
5 ~~reference, reference excluding any subsequent amendments and editions,~~ except that the words "or within another
6 reasonable period of time determined by the implementing agency" in the first sentence shall not be adopted by
7 reference.

8
9 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

10 *Eff. January 1, 1991;*

11 *Amended Eff. June 1, ~~2017~~, 2017;*

12 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0703 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0703 INITIAL ABATEMENT MEASURES AND SITE CHECK**

4 The regulations governing "Initial abatement measures and site check" set forth in 40 CFR 280.62 (Subpart F) are
5 hereby incorporated by ~~reference, reference excluding any subsequent amendments and editions,~~ except that:

6 (1) 40 CFR 280.62(a)(6) shall read, "Investigate to determine the possible presence of free product and
7 begin free product removal within 14 days in accordance with 40 CFR 280.64." Upon written
8 request, the Division may grant additional time to begin free product removal. The request shall be
9 made to the Division prior to the expiration of the required time period. When considering such a
10 request, the Division may consider factors as follows:

- 11 (a) the extent to which the request for additional time is due to factors outside of the control
12 of the tank owner or operator;
13 (b) the previous history of the tank owner or operator submitting the report in complying with
14 deadlines established under the Commission's rules;
15 (c) the technical complications associated with free product removal; and
16 (d) the necessity for action to eliminate an imminent threat to public health or the environment;
17 and

18 (2) In 40 CFR 280.62(b) the words, "or within another reasonable period of time determined by the
19 implementing agency," shall not be adopted by reference.
20

21 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*
22 *Eff. January 1, 1991;*
23 *Amended Eff. June 1, ~~2017~~, 2017;*
24 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0704 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0704 INITIAL SITE CHARACTERIZATION**

4 The regulations governing "Initial site characterization" set forth in 40 CFR 280.63 (Subpart F) are hereby
5 incorporated by ~~reference, reference excluding any subsequent amendments and editions,~~ except that in 40 CFR
6 280.63(b) the words "or another reasonable period of time determined by the implementing agency" shall not be
7 adopted by reference. Upon written request, the Division may grant additional time to submit the information collected
8 in compliance with 40 CFR 280.63(a). The request shall be made to the Division prior to the expiration of the required
9 time period. When considering such a request, the Division may consider factors as follows:

- 10 (1) the extent to which the request for additional time is due to factors outside of the control of the tank
11 owner or operator;
- 12 (2) the previous history of the tank owner or operator submitting the report in complying with deadlines
13 established under the Commission's rules;
- 14 (3) the technical complications associated with an initial site characterization; and
- 15 (4) the necessity for action to eliminate an imminent threat to public health or the environment.
- 16

17 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*
18 *Eff. January 1, 1991;*
19 *Amended Eff. June 1, ~~2017~~; 2017;*
20 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0705 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0705 FREE PRODUCT REMOVAL**

4 The regulations governing "Free product removal" set forth in 40 CFR 280.64 (Subpart F) are hereby incorporated by
5 ~~reference.~~reference excluding any subsequent amendments and editions.

6
7 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

8 *Eff. January 1, 1991;*

9 *Amended Eff. June 1, ~~2017~~ 2017;*

10 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0706 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0706 INVESTIGATIONS FOR SOIL AND GROUNDWATER CLEANUP**

4 The regulations governing "Investigations for soil and groundwater cleanup" set forth in 40 CFR 280.65 (Subpart F)
5 are hereby incorporated by ~~reference.~~reference excluding any subsequent amendments and editions.

6
7 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

8 *Eff. January 1, 1991;*

9 *Amended Eff. June 1, ~~2017~~2017;*

10 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0707 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0707 CORRECTIVE ACTION PLAN**

4 The regulations governing "Corrective action plan" set forth in 40 CFR 280.66 (Subpart F) are hereby incorporated
5 by ~~reference, reference excluding any subsequent amendments and editions,~~ except that 40 CFR 280.66(a) shall read:
6 "After reviewing the information submitted in compliance with 40 CFR 280.61 through 40 CFR 280.63, the Division
7 may require owners and operators to submit additional information or to develop and submit a corrective action plan
8 for responding to contaminated soils and groundwater. If a plan is required, owners and operators ~~must~~shall prepare a
9 plan in accordance with the requirements specified in 15A NCAC 02L."

10
11 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h);*
12 *Eff. January 1, 1991;*
13 *Amended Eff. September 1, 1992;*
14 *Temporary Amendment Eff. January 2, 1998;*
15 *Amended Eff. June 1, 2017; October 29, ~~1998, 1998;~~*
16 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0708 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0708 PUBLIC PARTICIPATION**

4 The regulations governing "Public participation" set forth in 40 CFR 280.67 (Subpart F) are hereby incorporated by
5 ~~reference.~~reference excluding any subsequent amendments and editions.

6
7 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

8 *Eff. January 1, 1991;*

9 *Amended Eff. June 1, ~~2017~~ 2017;*

10 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0801 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0801 TEMPORARY CLOSURE**

4 The regulations governing "Temporary closure" set forth in 40 CFR 280.70 (Subpart G) are hereby incorporated by
5 ~~reference.~~ reference excluding any subsequent amendments and editions.

6
7 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

8 *Eff. January 1, 1991;*

9 *Amended Eff. June 1, ~~2017~~ 2017;*

10 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0802

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

At lines 7-8, this Rule requires compliance "within 12 months of January 1, 1991." Since that date has passed, is this rule still necessary?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02N .0802 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0802 PERMANENT CLOSURE AND CHANGES-IN-SERVICE**

4 The regulations governing "Permanent closure and changes-in-service" set forth in 40 CFR 280.71 (Subpart G) are
5 hereby incorporated by ~~reference, reference excluding any subsequent amendments and editions,~~ except that an UST
6 system containing de minimis concentrations of a regulated substance shall meet the closure requirements of this Rule
7 within 12 months of ~~the effective date of this Subchapter,~~ January 1, 1991.

8
9 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

10 *Eff. January 1, 1991;*

11 *Amended Eff. June 1, ~~2017;~~ 2017;*

12 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0803 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0803 ASSESSING THE SITE AT CLOSURE OR CHANGE-IN-SERVICE**

4 The regulations governing "Assessing the site at closure or change-in-service" set forth in 40 CFR 280.72 (Subpart G)
5 are hereby incorporated by ~~reference~~, reference excluding any subsequent amendments and editions, except that:

- 6 (1) references to methods and requirements shall include all applicable references and methods listed
7 in 15A NCAC 02N .0504; and
8 (2) the number and location of samples and method of their collection shall be determined in accordance
9 with procedures established by the Division. In establishing procedures, the Division may consider
10 factors such as:
11 (a) dimensions of the USTs;
12 (b) type of products stored in the USTs;
13 (c) method of closure;
14 (d) type of and length of associated product lines;
15 (e) number of associated dispensers;
16 (f) number of associated containment sumps;
17 (g) methods of field sample analysis and laboratory sample analysis;
18 (h) potential for vapor intrusion;
19 (i) proximity to surface waters; and
20 (j) site conditions such as site geology and hydrology.

21
22 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*
23 *Eff. January 1, 1991;*
24 *Amended Eff. June 1, ~~2017~~; 2017;*
25 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0804 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0804 APPLICABILITY TO PREVIOUSLY CLOSED UST SYSTEMS**

4 The regulations governing "Applicability to previously closed UST systems" set forth in 40 CFR 280.73 (Subpart G)
5 are hereby incorporated by ~~reference.~~reference excluding any subsequent amendments and editions.

6
7 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

8 *Eff. January 1, 1991;*

9 *Amended Eff. June 1, ~~2017~~2017;*

10 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0805 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0805 CLOSURE RECORDS**

4 The regulations governing "Closure records" set forth in 40 CFR 280.74 (Subpart G) are hereby incorporated by
5 ~~reference.~~reference excluding any subsequent amendments and editions.

6
7 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); ~~150B-21.6;~~*

8 *Eff. January 1, 1991;*

9 *Amended Eff. June 1, ~~2017~~ 2017;*

10 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0901

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

In (n), line 36, please add a comma after "(d)."

In (n)(3), is it necessary to say "at a minimum?" Rules always set minimum requirements.

In (n)(3), line 6, please change "must" to "shall."

On page 3, lines 9-10, should this be labeled as Paragraph (o) or is it part of (n)?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02N .0901 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0901 GENERAL REQUIREMENTS**

4 (a) This Section applies to a UST system or UST system component installation or replacement completed on or after
5 November 1, 2007.

6 (b) A UST system or UST system component shall not be installed or replaced within an area defined ~~at 15A NCAC~~
7 ~~02N .0301(b)~~ in Rule .0301(b) of this Subchapter.

8 (c) A tank shall meet the requirements for secondary containment including interstitial release detection monitoring
9 in accordance with this Rule.

10 (d) All UST system components other than tanks including connected piping, underground ancillary equipment,
11 dispensers, line leak detectors, submersible pumps, spill buckets, siphon bars, and remote fill pipes shall meet the
12 requirements for secondary containment including interstitial release detection monitoring in accordance with this
13 Rule. Gravity-fed vertical fill pipes, vapor recovery, vent lines, and containment sumps are excluded from the
14 secondary containment requirements in this Rule.

15 (e) A UST system design is required for installation or replacement of a UST system, UST, or connected piping. If
16 required by G.S. 89C, UST system designs must be prepared by a Professional Engineer licensed by the North Carolina
17 Board of Examiners for Engineers and Surveyors.

18 [Note: The North Carolina Board of Examiners for Engineers and Surveyors has determined via letter dated December
19 20, 1993, that preparation of a UST system design constitutes practicing engineering under G.S. 89C.]

20 (f) If required by the equipment manufacturer, persons installing, replacing or repairing UST systems or UST system
21 components must be trained and certified by the equipment manufacturer or the equipment manufacturer's authorized
22 representative to install, replace or repair such equipment.

23 (g) UST systems or UST system components shall be installed, tested, operated, and maintained in accordance with
24 the manufacturer's specifications and the codes of practice, and industry standards described ~~at 15A NCAC 02N~~
25 ~~.0907~~ in Rule .0907 of this Section.

26 (h) UST systems or UST system components shall not be installed or replaced in areas where they will be in contact
27 with contaminated soil or free product.

28 (i) Secondary containment systems shall be designed, constructed, installed and maintained to:

- 29 (1) ~~Detect~~ detect the failure of the inner wall and outer wall for UST system components with double
30 wall construction;
- 31 (2) ~~Contain~~ contain regulated substances released from a UST system until they are detected and
32 removed;
- 33 (3) ~~Prevent~~ prevent a release of regulated substances to the environment outside of the containment
34 system;
- 35 (4) ~~Direct~~ direct releases to a monitoring point or points;
- 36 (5) ~~Provide~~ provide a release detection monitoring device or monitoring method for the interstitial space;

- (6) ~~Continuously~~on an uninterrupted basis, monitor the inner and outer walls of double-walled tanks for breaches of integrity using pressure, vacuum or hydrostatic monitoring methods or monitor the interstitial space of double-walled tanks for releases using an electronic liquid detecting sensor method along with periodic testing as specified in Rule ~~.0903(f)~~.0903(f) of this Section;
- (7) ~~Continuously~~on an uninterrupted basis, monitor the inner and outer walls of double-walled non-tank components for breaches of integrity using pressure, vacuum, or hydrostatic methods, or monitor a non-tank component for releases by using an electronic liquid detecting sensor placed in a containment sump and in the interstitial space of a double-walled spill bucket along with periodic integrity testing as specified in Rules ~~.0904(h), .0905(f), .0904(f), .0905(g) and .0906(e)~~.0906(e) of this Section; and
- (8) ~~Provide~~provide a printed record of release detection monitoring results and an alarm history for each month.
- (j) Electronic liquid detecting sensors used to monitor the interstitial space of double-walled tanks and non-tank components shall meet the following requirements:
- (1) Electronic liquid detecting sensors used for tanks and spill buckets ~~must~~shall be located at the lowest point in the interstitial space. Electronic liquid detecting sensors used for containment sumps ~~must~~shall be located as specified in Rule ~~.0905(d)~~.0905(d) of this Section.
 - (2) A tank ~~must~~shall have a method to verify that an electronic liquid detecting sensor is located at the lowest point of the interstitial space. Verification of the sensor location ~~must~~shall be available for inspection.
 - (3) Electronic liquid detecting sensors ~~must~~shall detect the presence of any liquid in the interstitial space and ~~must~~shall activate an alarm when any type of liquid is detected.
 - (4) Any liquid detected in the interstitial space must be removed within 48 hours of discovery.
- (k) New or replacement dispensers shall be provided with under dispenser containment sumps and shall meet the secondary containment requirements and performance standards of this Rule.
- (l) All release detection monitoring equipment shall be installed, calibrated, operated and maintained in accordance with manufacturer's instructions. All release detection monitoring equipment shall be checked annually for operability, proper operating condition and proper calibration in accordance with the ~~manufacturers~~manufacturer's written guidelines. The results of the last annual check must be recorded, maintained at the UST site or the tank owner or operator's place of business, and made available for inspection.
- (m) Releases detected in an interstitial space shall be reported in accordance with Rule .0601 of this Subchapter and investigated in accordance with the ~~manufacturers~~manufacturer's written guidelines. Any changes in the original physical characteristics or integrity of a piping system or a containment sump ~~must~~shall also be reported in accordance with Rule .0601 of this Subchapter and investigated in accordance with the manufacturer's written guidelines.
- (n) UST systems and UST system components shall also meet all of the ~~installation~~ requirements specified in 40 CFR 280.20(c), (d) and (e). In addition, overfill prevention equipment shall be checked annually for operability, proper operating condition and proper calibration in accordance ~~with the manufacturer's written guidelines with:~~

- 1 (1) written requirements developed by the manufacturer;
2 (2) a code of practice developed by a nationally recognized association or independent testing
3 laboratory; or
4 (3) requirements determined by the Division to be no less protective of human health and the
5 environment than the requirements listed in Subparagraph (1) or (2) of this Paragraph. At a
6 minimum, the inspection must ensure that overfill prevention equipment is set to activate at the
7 correct level specified in 40 CFR 280.20(c)(1)(ii) and will activate when regulated substance reaches
8 that level.

9 The results of the last annual check ~~must~~shall be recorded, maintained at the UST site or the tank owner or operator's
10 place of business, and made available for inspection.

11
12 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h);*
13 *Eff. November 1, 2007;*
14 *Amended Eff. February 1, ~~2010-2010~~;*
15 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0902 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0902 NOTIFICATION**

4 (a) Owners and operators ~~must~~shall provide notification of installation or replacement of an UST system, UST, or
5 connected piping to the Division in accordance with ~~15A NCAC 02N .0303~~Rule .0303 of this Subchapter. The notice
6 shall also include:

- 7 (1) An UST system design.
8 (2) Equipment to be installed including model and manufacturer and the materials of construction.
9 (3) Device or method to be used to allow piping to be located after it is buried underground.
10 (4) A site plan drawn to scale showing the proposed location of UST systems relative to buildings and
11 other permanent structures, roadways, utilities, other UST systems, monitoring wells, and water
12 supply wells within 500 feet used for human consumption within 500 feet consumption.
13 (5) A schedule for UST system installation or replacement.

14 (b) Owners and operators ~~must~~shall notify the Division at least 48 hours prior to the following stages of construction
15 so that the Division may perform an inspection of the installation:

- 16 (1) ~~Pre-installation~~pre-installation tightness testing of tanks; and
17 (2) ~~Final~~final tightness testing of piping before it is backfilled.

18 (c) Documents showing the following information shall be submitted to the Division within 30 days after UST system,
19 UST, or connected piping installation or replacement is completed and shall be maintained at the UST system site or
20 the owner's or operator's place of business for the life of the UST system. These records shall be transferred to a new
21 tank owner at the time of a transfer of tank ownership:

- 22 (1) Certification from the UST system installer containing:
23 (A) ~~The~~the UST system installer's name, address and telephone number; training and any
24 certification received from the manufacturer of the equipment that was installed or replaced
25 or the equipment manufacturer's authorized representative including any certification
26 number;
27 (B) ~~An~~an as-built diagram drawn to scale showing: the name and address of the UST system
28 site; the date of UST system, UST, or connected piping installation or replacement; the
29 equipment that was installed including model and manufacturer; the information described
30 ~~at 15A NCAC 02N .0903(b)~~in Rule .0903(c) of this Section; the method used to anchor a
31 tank in the ground; if the equipment has single-walled or double-walled construction; the
32 year the piping was manufactured and any production code; and the device or method used
33 to allow piping to be located after it is buried underground. The as-built diagram shall also
34 show the location of the installed or replaced UST systems relative to: buildings and other
35 permanent structures, utilities, monitoring wells and other UST systems located at the site;
36 adjacent roadways; and water supply wells used for human consumption within 500 feet;

1 (C) ~~Aa~~ listing of the manufacturer's written guidelines, codes of practice, and industry
2 standards used for installation; and

3 (D) ~~Aa~~ statement that the UST system was installed in accordance with the design and the
4 manufacturer's specifications.

5 (2) ~~Manufacturer~~manufacturer warranties;

6 (3) ~~Any~~any equipment performance claims; and

7 (4) ~~Records~~records of all tightness testing performed.

8
9 *History Note:* *Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h);*

10 *Eff. November 1, ~~2007~~2007;*

11 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0903 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0903 TANKS**

4 (a) Tanks ~~must~~shall be protected from external corrosion in accordance with 40 CFR 280.20(a)(1), (2), (3), or (5).

5 (b) Owners and operators of tanks installed in accordance with 40 CFR 280.20(a)(2) shall comply with all applicable
6 requirements for corrosion protection systems contained in this Subchapter.

7 (c) The exterior surface of a tank shall bear a permanent marking, code stamp, or label showing the following
8 information:

9 (1) ~~The~~the engineering standard used;

10 (2) ~~The~~the diameter in feet;

11 (3) ~~The~~the capacity in gallons;

12 (4) ~~The~~the materials of construction of the inner and outer walls of the tank, including any external or
13 internal coatings;

14 (5) ~~Serial~~serial number or other unique identification number designated by the tank manufacturer;

15 (6) ~~Date~~date manufactured; and

16 (7) ~~Identify~~identify of manufacturer.

17 (d) Tanks that will be reused shall be certified by the tank manufacturer prior to re-installation and meet all of the
18 requirements of this Section. Tank owners and operators shall submit proof of certification to the Division along with
19 a notice of intent (~~Rule .0902~~);in accordance with Rule .0902 of this Section.

20 (e) Tanks shall be tested before and after installation in accordance with the following requirements:

21 (1) Pre- Installation Test - Before installation, the primary containment and the interstitial space shall
22 be tested in accordance with the manufacturers written guidelines and PEI/RP100, "Recommended
23 Practice for Installation of Underground Liquid Storage Systems." PEI/RP100, "Recommended
24 Practice for Installation of Underground Liquid Storage Systems" is hereby incorporated by
25 reference including subsequent amendments and editions. A copy may be obtained from Petroleum
26 Equipment ~~Institute, P.O. Box 2380, Tulsa, Oklahoma 74101-2380~~Institute at
27 <https://my.pei.org/productdetails?id=a1Bf4000001yPEBEA2> at a cost of one hundred and ninety-
28 five dollars (\$95.00).~~(\$195.00).~~ The presence of soap bubbles or water droplets during a pressure
29 test, any change in vacuum beyond the limits specified by the tank manufacturer during a vacuum
30 test, or any change in liquid level in an interstitial space liquid reservoir beyond the limits specified
31 by the tank manufacturer, shall be considered a failure of the integrity of the tank.

32 (2) Post-installation Test – The interstitial space shall be checked for a loss of pressure or vacuum, or a
33 change in liquid level in an interstitial space liquid reservoir. Any loss of pressure or vacuum beyond
34 the limits specified by the tank manufacturer, or a change in liquid level beyond the limits specified
35 by the tank manufacturer, shall be considered a failure of the integrity of the tank.

36 (3) If a tank fails a pre-installation or post-installation test, tank installation shall be suspended until the
37 tank is replaced or repaired in accordance with the manufacturer's specifications. Following any

1 repair, the tank shall be re-tested in accordance with Subparagraph ~~(e)(1)(1)~~ of this ~~Rule~~Paragraph
2 if it failed the pre-installation test and in accordance with Subparagraph ~~(e)(2)(2)~~ of this
3 ~~Rule~~Paragraph if it failed the post-installation test.

4 (f) The interstitial spaces of tanks that are not monitored using vacuum, pressure, or hydrostatic methods shall be
5 tested for tightness before UST system start-up, between six months and the first anniversary of start-up, and every
6 three years thereafter. The interstitial space shall be tested using an interstitial tank tightness test method that is
7 capable of detecting a 0.10 gallon per hour leak rate with a probability of detection (Pd) of at least 95 percent and a
8 probability of false alarm (Pfa) of no more than ~~5~~five percent. The test method shall be evaluated by an independent
9 testing laboratory, consulting firm, not-for-profit research organization, or educational institution using the most recent
10 version of the United States Environmental Protection Agency's (EPA's) "Standard Test Procedures for Evaluating
11 ~~LeakRelease Detection Methods.~~"Methods: Volumetric and Non-volumetric Tank Tightness Testing (EPA 510-B-19-
12 003)." EPA's "Standard Test Procedures for Evaluating ~~LeakRelease Detection Methods.~~"Methods: Volumetric and
13 Non-volumetric Tank Tightness Testing (EPA 510-B-19-003)" is hereby incorporated by reference including
14 subsequent amendments and additions. A copy may be obtained by visiting EPA's Office of Underground Storage
15 Tank website: ~~http://www.epa.gov/oust/pubs/protocol.htm~~ https://www.epa.gov/ust/standard-test-procedures-
16 evaluating-various-leak-detection-methods and may be accessed free of charge. The independent testing laboratory,
17 consulting firm, not-for-profit research organization, or educational institution shall certify that the test method can
18 detect a 0.10 gallon per hour leak rate with a Pd of at least 95 percent and a Pfa of no more than ~~5~~five percent for the
19 specific tank model being tested. If a tank fails an interstitial tank tightness test, it shall be replaced by the owner or
20 operator or repaired by the manufacturer or the manufacturer's authorized representative in accordance with
21 manufacturer's specifications. Tank owners and operators shall report all failed interstitial tank tightness tests to the
22 Division within 24 hours. Failed interstitial tank tightness tests shall be reported by fax to the Division of Waste
23 Management, Underground Storage Tank Section, at (919) 715-1117. Following any repair, the tank interstitial space
24 shall be re-tested for tightness. The most recent interstitial tightness test record shall be maintained at the UST site or
25 the tank owner's or operator's place of business and shall be available for inspection.

26
27 *History Note:* Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h);
28 Eff. November 1, 2007;
29 Amended Eff. June 1, 2015; February 1, ~~2010~~2010;
30 Readopted Eff. January 1, 2021.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0904

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

In (b)(1), are you missing the word shall at line 11? It would read: "...non-corroding materials and shall comply with the..."

In (b)(2), line 20, consider "shall comply" instead of "complies."

On page 2, line 11, please replace "additions" with "editions." Also, where can this document be found and at what cost? Please follow the format you used for the other incorporations by reference in this Rule.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02N .0904 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0904 PIPING**

4 (a) Piping, with the exception of flexible connectors and piping connections, shall be pre-fabricated with double-
5 walled construction. Any flexible connectors or piping connections that do not have double-walled construction shall
6 be installed in containment sumps that meet the requirements of ~~15A NCAC 02N .0905~~ Rule .0905 of this Section.

7 ~~(b) Piping~~ Piping, with the exception of metal flex connectors and piping connections, shall be constructed of non-
8 ~~corroding materials. meet the requirements of Subparagraph (1) or (2) of this Paragraph.~~ Metal flexible connectors
9 and piping connections shall be installed in containment sumps that meet the requirements of ~~15A NCAC 02N~~
10 ~~.0905~~ Rule .0905 of this Section.

11 ~~(c)(1)~~ Piping shall ~~Primary and secondary piping are constructed of non-corroding materials and comply~~
12 ~~with the UL~~ Underwriters Laboratories Standard (UL) 971 standard "Nonmetallic Underground
13 Piping for Flammable Liquids," "Liquids" that is in effect at the time the piping is installed. UL 971
14 ~~standard "Nonmetallic"~~ "Standard for Nonmetallic Underground Piping for Flammable Liquids" is
15 hereby incorporated by reference including subsequent amendments and editions. A copy may be
16 obtained from Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-
17 2096 ~~Laboratories at https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=7936~~ at
18 a cost of four hundred and two dollars (\$402.00).

19 ~~(2)~~ Primary piping is constructed of stainless steel and secondary piping is constructed of non-corroding
20 materials and complies with UL 971A "Outline of Investigation for Metallic Underground Fuel
21 Pipe." UL 971A "Outline of Investigation for Metallic Underground Fuel Pipe" is hereby
22 incorporated by reference including subsequent amendments and editions. A copy may be obtained
23 from Underwriters Laboratories at
24 https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=15373 at a cost of two
25 hundred and twenty-five dollars (\$225.00).

26 ~~(d)(c)~~ Piping that is buried underground shall be constructed with a device or method that allows it to be located once
27 it is installed.

28 ~~(e)(d)~~ Piping that conveys regulated substances under pressure shall also be equipped with an automatic line leak
29 detector that meets the requirements of 40 CFR 280.44(a).

30 ~~(f)(e)~~ At the time of installation, the primary containment and interstitial space of the piping shall be initially tested,
31 monitored during construction, and finally tested in accordance with the manufacturers written guidelines and
32 PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems." The presence of soap
33 bubbles or water droplets or any loss of pressure beyond the limits specified by the piping manufacturer during testing
34 shall be considered a failure of the integrity of the piping. If the piping fails a tightness test, it shall be replaced by the
35 owner or operator or repaired by the manufacturer or the manufacturer's authorized representative in accordance with
36 the manufacturer's written specifications. Following any repair, the piping shall be re-tested for tightness in accordance

1 with the manufacturers written guidelines and PEI/RP100, "Recommended Practice for Installation of Underground
2 Liquid Storage Systems."

3 ~~(g)~~(f) Piping that is not monitored continuously for releases using vacuum, pressure, or hydrostatic methods, shall be
4 tested for tightness every three years following installation. The primary containment ~~and shall be tested using a piping~~
5 tightness test method that is capable of detecting a 0.10 gallon per hour leak rate with a probability of detection (Pd)
6 of at least 95 percent and a probability of false alarm (Pfa) of no more than five percent. The test method shall be
7 evaluated by an independent testing laboratory, consulting firm, not-for-profit research organization, or educational
8 institution using the most recent version of the United States Environmental Protection Agency's (EPA's) "Standard
9 Test Procedures for Evaluating Release Detection Methods: Pipeline Release Detection (EPA 510-B-19-005)." EPA's
10 "Standard Test Procedures for Evaluating Release Detection Methods: Pipeline Release Detection (EPA 510-B-19-
11 005)" is hereby incorporated by reference including subsequent amendments and additions. The independent testing
12 laboratory, consulting firm, not-for-profit research organization, or educational institution shall certify that the test
13 method can detect a 0.10 gallon per hour leak rate with a Pd of at least 95 percent and a Pfa of no more than five
14 percent. The interstitial space of the piping shall be tested in accordance with the manufacturers' written
15 guidelines and PEI/RP100 "Recommended Practice for Installation of Underground Liquid Storage Systems." or a
16 code of practice developed by a nationally recognized association or independent testing laboratory. If the piping fails
17 a tightness test, it shall be replaced or repaired by the manufacturer or the manufacturer's authorized representative in
18 accordance with the manufacturer's specifications. Following any repair, the piping shall be re-tested for
19 ~~tightness.~~tightness in accordance with Paragraph (f) of this Rule. The most recent periodic tightness test record shall
20 be maintained at the UST site or the tank owner or operator's place of business and shall be available for inspection.

21
22 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h);*

23 *Eff. November 1, 2007;*

24 *Amended Eff. June 1, 2015; 2015;*

25 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0905

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

In (c), please add a comma after "installed."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02N .0905 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0905 CONTAINMENT SUMPS**

4 (a) Containment sumps ~~must~~shall be constructed of non-corroding materials.

5 (b) Containment sumps ~~must~~shall be designed and manufactured expressly for the purpose of containing and detecting
6 a release.

7 (c) Containment sumps ~~must~~shall be designed, constructed, installed and maintained to prevent water infiltration.

8 (d) Electronic sensor probes used for release detection monitoring ~~must~~shall be located no more than two inches
9 above the lowest point of the containment sump.

10 (e) At installation, containment sumps shall be tested for tightness after construction, but before backfilling. Tightness
11 testing shall be conducted in accordance with the ~~manufacturers~~manufacturer's written guidelines and PEI/RP100,
12 "Recommended Practice for Installation of Underground Liquid Storage Systems." ~~Any change in water level shall~~
13 ~~be considered a failure of the integrity of the sump.~~ Other tightness test methods may be used if they are approved by
14 the Division. In approving a containment sump tightness testing method the Division shall consider the following
15 factors:

16 (1) ~~The~~the inner surface of the sump is tested to at least ~~six~~four inches above the highest joint or
17 penetration fitting, whichever is higher; and

18 (2) ~~The~~the method is capable of detecting a fracture, perforation or gap in the sump within the specified
19 test period.

20 (f) If a containment sump fails an installation tightness test, the sump ~~must~~shall be replaced or repaired by the
21 manufacturer or the manufacturer's authorized representative in accordance with the manufacturer's specifications.
22 Following replacement or repair, the containment sump ~~must~~shall be re-tested for tightness in accordance with
23 Paragraph (e) of this Rule.

24 (g) Containment sumps that are not monitored ~~continuously on an uninterrupted basis~~ for releases using vacuum,
25 pressure or hydrostatic interstitial monitoring methods shall be tested for tightness every three years following
26 installation in accordance with the ~~manufacturers~~ written guidelines and PEI/RP100, "~~Recommended Practice for~~
27 ~~Installation of Underground Liquid Storage Systems.~~"with:

28 (1) written requirements developed by the manufacturer;

29 (2) a code of practice developed by a nationally recognized association or independent testing
30 laboratory; or

31 (3) requirements determined by the Division to be no less protective of human health and the
32 environment than the requirements listed in Subparagraph (1) and (2) of this Paragraph.

33 If a containment sump fails a periodic tightness test, the sump ~~must~~shall be replaced in accordance with Paragraphs
34 (a), (b) and (c) of this Rule or repaired by the manufacturer or the manufacturer's authorized representative in
35 accordance with the manufacturer's ~~specifications~~specifications or a code of practice developed by a nationally
36 recognized association or independent testing laboratory. Following replacement or repair, the containment sump
37 ~~must~~shall be re-tested for tightness in accordance with Paragraph (e) of this Rule. The last periodic tightness test

1 record ~~must~~shall be maintained at the UST site or the tank owner or operator's place of business and ~~must~~shall be
2 ~~readily~~ available for inspection.

3 ~~(g)(h)~~ All containment sumps shall be visually inspected at least annually ~~for the presence of water or regulated~~
4 ~~substance in accordance with Rule .0407 of this Subchapter.~~ Any water or regulated substance ~~must~~present in a sump
5 at the time of inspection shall be removed from the sump within 48 hours of discovery. The visual inspection results
6 ~~must~~shall be documented and ~~must~~shall be maintained for at least one year at the UST site or the tank owner's or
7 operator's place of business and ~~must~~shall be ~~readily~~ available for inspection.

8
9 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(2)(h);*

10 *Eff. November 1, ~~2007~~2007;*

11 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02N .0906 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0906 SPILL BUCKETS**

4 (a) Spill buckets shall be pre-fabricated with double-walled construction.

5 (b) Spill buckets ~~must~~shall be protected from corrosion by being constructed of non-corroding materials.

6 (c) Spill buckets ~~must~~shall be designed, constructed, ~~installed~~installed, and maintained to prevent water infiltration.

7 (d) After installation but before backfilling, the primary containment and interstitial space of the spill bucket shall be
8 tested in accordance with the ~~manufacturers~~manufacturer's written guidelines ~~and PEI/RP100, "Recommended~~
9 ~~Practice for Installation of Underground Liquid Storage Systems."~~or a code of practice developed by a nationally
10 recognized association or independent testing laboratory. Any change in vacuum during a vacuum test or any change
11 in liquid level in an interstitial space liquid reservoir beyond the limits specified by the equipment manufacturer shall
12 be considered a failure of the integrity of the spill bucket. If the spill bucket fails a tightness test, it ~~must~~shall be
13 replaced or repaired by the manufacturer or the manufacturer's authorized representative in accordance with the
14 manufacturer's specifications. Following any repair, the spill bucket ~~must~~shall be re-tested for tightness in accordance
15 with the manufacturers' written guidelines ~~and PEI/RP100, "Recommended Practice for Installation of Underground~~
16 ~~Liquid Storage Systems."~~or a code of practice developed by a nationally recognized association or independent testing
17 laboratory.

18 (e) Spill buckets that are not monitored ~~continuously~~on an uninterrupted basis for releases using vacuum, pressure or
19 hydrostatic methods, ~~must~~shall be tested for tightness ~~at installation and~~ every three years following installation. The
20 primary containment and interstitial space of the spill bucket shall be tested in accordance ~~with the manufacturers'~~
21 ~~written guidelines and PEI/RP100 "Recommended Practice for Installation of Underground Liquid Storage~~
22 ~~Systems."~~with:

23 (1) written requirements developed by the manufacturer;

24 (2) a code of practice developed by a nationally recognized association or independent testing
25 laboratory; or

26 (3) requirements determined by the Division to be no less protective of human health and the
27 environment than the requirements listed in Subparagraph (1) and (2) of this Paragraph.

28 If the spill bucket fails a tightness test, it ~~must~~shall be replaced ~~and tested in accordance with Paragraphs (a) through~~
29 ~~(d) of this Rule~~ or repaired by the manufacturer or the manufacturer's authorized representative in accordance with the
30 manufacturer's specifications. Following any repair, the spill bucket ~~must~~shall be re-tested for ~~tightness~~tightness in
31 accordance with the manufacturers' written guidelines or a code of practice developed by a nationally recognized
32 association or independent testing laboratory. The last periodic tightness test record ~~must~~shall be maintained at the
33 UST site or the tank owner or operator's place of business and ~~must~~shall be ~~readily~~ available for inspection.

34
35 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(2)(h);*

36 *Eff. November 1, 2007; 2007;*

37 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0907

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

At line 4, please change "must" to "shall."

It appears the access cost for many of the incorporated materials in this Rule have gone up since publication. Please review and update.

In (2), what do the acronyms ASTM and PEI stand for? Are they spelled out elsewhere in these rules? If not, please spell out terms at first use. For example, Rules Review Commission (RRC).

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02N .0907 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02N .0907 NATIONAL CODES OF PRACTICE AND INDUSTRY STANDARDS**

4 In order to comply with this Section, owners and operators must comply with ~~either of the~~ following standards:

5 (1) The most recent versions of the following national codes of practice and industry standards
6 applicable at the time of UST system installation or replacement shall be ~~used to comply with this~~
7 ~~Section-used.~~

8 (a) American Concrete Institute (ACI) International ~~224R-89,224R-01,~~ "Control of Cracking
9 in Concrete Structures." ACI International ~~224R-89,224R-01,~~ "Control of Cracking in
10 Concrete Structures" is hereby incorporated by reference including subsequent
11 amendments and editions. A copy may be obtained from ACI International, P.O. Box
12 ~~9094, Farmington Hills, Michigan 48333-9094~~ International at
13 <https://www.concrete.org/store/productdetail.aspx?ItemID=22401&Format=DOWNLOA>
14 [D&Language=English&Units=US_AND_METRIC](https://www.concrete.org/store/productdetail.aspx?ItemID=22401&Format=DOWNLOA) at a cost of ~~sixty seven~~ seventy-four
15 dollars and fifty cents ~~(\$67.50)-(\$74.50).~~

16 (b) ACI International 350-06, "Environmental Engineering Concrete Structures." ACI
17 International 350-06, "Environmental Engineering Concrete Structures" is hereby
18 incorporated by reference including subsequent amendments and editions. A copy may be
19 obtained from ACI International, P.O. Box ~~9094, Farmington Hills, Michigan 48333-~~
20 ~~9094~~ International at
21 <https://www.concrete.org/store/productdetail.aspx?ItemID=35006&Language=English&>
22 [Units=US_Units](https://www.concrete.org/store/productdetail.aspx?ItemID=35006&Language=English&) at a cost of one hundred ~~sixty six~~ eighty-one dollars and fifty cents
23 ~~(\$166.50)-(\$181.50).~~

24 (c) American Petroleum Institute (API) Standard 570, "Piping Inspection Code: Inspection
25 Repair, Alteration and Re-rating of In-Service Piping Systems." API Standard 570, "Piping
26 Inspection Code: Inspection Repair, Alteration and Re-rating of In-Service Piping
27 Systems" is hereby incorporated by reference including subsequent amendments and
28 editions. A copy may be obtained from API Publications, ~~15 Inverness Way East, M/S~~
29 ~~C303B, Englewood, Colorado 80112-5776~~ Publications at
30 https://www.techstreet.com/api/standards/api-570?product_id=1910713 at a cost of one
31 hundred ~~eighty-five~~ eighty-five dollars ~~(\$108.00)-(\$185.00).~~

32 (d) API Recommended Practice 1110, "Recommended Practice for the Pressure Testing of
33 Liquid Petroleum Pipelines." API Recommended Practice 1110, "Recommended Practice
34 for the Pressure Testing of Liquid Petroleum Pipelines" is hereby incorporated by reference
35 including subsequent amendments and editions. A copy may be obtained from API
36 ~~Publications, 15 Inverness Way East, M/S C303B, Englewood, Colorado 80112-~~

- 1 ~~5776~~Publications at [https://www.techstreet.com/api/standards/api-rp-1110-](https://www.techstreet.com/api/standards/api-rp-1110-r2018?product_id=1852115)
2 [r2018?product_id=1852115](https://www.techstreet.com/api/standards/api-rp-1110-r2018?product_id=1852115) at a cost of ~~fifty-five~~ninety-eight dollars ~~(\$55.00).~~(\$98.00).
- 3 (e) API Recommended Practice 1615, "Installation of Underground Petroleum Storage
4 Systems." API Recommended Practice 1615, "Installation of Underground Hazardous
5 Substances or Petroleum Storage Systems" is hereby incorporated by reference including
6 subsequent amendments and editions. A copy may be obtained from API ~~Publications, 15~~
7 ~~Inverness Way East, M/S C303B, Englewood, Colorado 80112~~ ~~5776~~Publications at
8 https://www.techstreet.com/api/standards/api-rp-1615?product_id=1780646 at a cost of
9 ~~one~~two hundred eighteleven dollars ~~(\$108.00).~~(\$211.00).
- 10 (f) API Recommended Practice 1621, "Bulk Liquid Stock Control at Retail Outlets." API
11 Recommended Practice 1621, "Bulk Liquid Stock Control at Retail Outlets" is hereby
12 incorporated by reference including subsequent amendments and editions. A copy may be
13 obtained from API ~~Publications, 15 Inverness Way East, M/S C303B, Englewood,~~
14 ~~Colorado 80112~~ ~~5776~~Publications at [https://www.techstreet.com/api/standards/api-rp-](https://www.techstreet.com/api/standards/api-rp-1621-r2012?product_id=14616)
15 [1621-r2012?product_id=14616](https://www.techstreet.com/api/standards/api-rp-1621-r2012?product_id=14616) at a cost of ~~seventy-three~~eighty-five dollars
16 ~~(\$73.00).~~(\$85.00).
- 17 (g) API Recommended Practice 1631, "Interior Lining and Periodic Inspection of
18 Underground Storage Tanks." API Recommended Practice 1631, "Interior Lining and
19 Periodic Inspection of Underground Storage Tanks" is hereby incorporated by reference
20 including subsequent amendments and editions. A copy may be obtained from API
21 ~~Publications, 15 Inverness Way East, M/S C303B, Englewood, Colorado 80112~~ ~~5776~~
22 ~~Publications~~ at https://www.techstreet.com/api/standards/api-rp-1631?product_id=913787
23 at a cost of ~~seventy-six~~eighty-nine dollars ~~(\$76.00).~~(\$89.00).
- 24 (h) API Recommended Practice 1637, "Using the API Color Symbol System to Mark
25 Equipment and Vehicles for Product Identification at ~~Service Stations~~Gasoline Dispensing
26 Facilities and Distribution Terminals." API Recommended Practice 1637, "Using the API
27 Color Symbol System to Mark Equipment and Vehicles for Product Identification at
28 ~~Service Stations~~Gasoline Dispensing Facilities and Distribution Terminals" is hereby
29 incorporated by reference including subsequent amendments and editions. A copy may be
30 obtained from API ~~Publications, 15 Inverness Way East, M/S C303B, Englewood,~~
31 ~~Colorado 80112~~ ~~5776~~Publications at [https://www.techstreet.com/api/standards/api-rp-](https://www.techstreet.com/api/standards/api-rp-1637-r2012?product_id=1274225)
32 [1637-r2012?product_id=1274225](https://www.techstreet.com/api/standards/api-rp-1637-r2012?product_id=1274225) at a cost of ~~fifty-nine~~sixty-eight dollars
33 ~~(\$59.00).~~(\$68.00).
- 34 (i) American Society of Mechanical Engineers (ASME) International: B31.4-2006, "~~2006~~
35 ~~Pipeline~~Pipeline Transportation Systems for ~~Liquid Hydrocarbons~~Liquids and ~~other~~
36 ~~Liquids.~~Slurries." ASME International: B31.4-2006, "~~2006~~ ~~Pipeline~~Pipeline
37 Transportation Systems for ~~Liquid Hydrocarbons~~Liquids and ~~other Liquids.~~Slurries" is

hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from ASME, ~~22 Law Drive, Box 2900, Fairfield, NJ 07007-2900~~ ASME at <https://www.asme.org/codes-standards/find-codes-standards/b31-4-pipeline-transportation-systems-liquids-slurries> at a cost of ~~one hundred twenty-nine~~ one hundred twenty-nine dollars (\$~~129.00~~) (\$215.00).

(j) National Fire Protection Association (NFPA) 30, "Flammable and Combustible Liquids Code." NFPA 30, "Flammable and Combustible Liquids Code" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from National Fire Protection Association, ~~1 Batterymarch Park, Quincy, Massachusetts 02169-7471~~ Association at <https://catalog.nfpa.org/NFPA-30-Flammable-and-Combustible-Liquids-Code-P1164.aspx?icid=D729> at a cost of ~~forty-two dollars and fifty cents (\$42.50)~~ seventy-five dollars (\$75.00).

(k) NFPA 30A, "~~Automotive and Marine Service Station Code.~~" "Code for Motor Fuel Dispensing Facilities and Repair Garages." NFPA 30A, "~~Automotive and Marine Service Station Code.~~" "Code for Motor Fuel Dispensing Facilities and Repair Garages" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from National Fire Protection Association, ~~1 Batterymarch Park, Quincy, Massachusetts 02169-7471~~ Association at <https://catalog.nfpa.org/NFPA-30A-Code-for-Motor-Fuel-Dispensing-Facilities-and-Repair-Garages-P1165.aspx?icid=D729> at a cost of ~~thirty-three~~ thirty-three dollars and fifty cents (~~\$33.50~~) (\$50.50).

(l) NFPA 329, "~~Handling Underground~~" "Recommended Practice for Handling Releases of Flammable and Combustible Liquids." "Liquids and Gases." NFPA 329, "~~Handling Underground~~" "Recommended Practice for Handling Releases of Flammable and Combustible Liquids." "Liquids and Gases" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from National Fire Protection Association, ~~1 Batterymarch Park, Quincy, Massachusetts 02169-7471~~ Association at <https://catalog.nfpa.org/NFPA-329-Recommended-Practice-for-Handling-Releases-of-Flammable-and-Combustible-Liquids-and-Gases-P1287.aspx?icid=D729> at a cost of ~~thirty-three~~ thirty-three dollars and fifty cents (~~\$33.50~~) (\$50.50).

(m) PEI: PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems." PEI: PEI/RP100, "Recommended Practice for Installation of Underground Liquid Storage Systems" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Petroleum Equipment Institute at https://www.techstreet.com/pei/standards/pei-rp100-17?gateway_code=pei&product_id=1945712 at a cost of one hundred ninety-five dollars (\$195.00).

- (n) PEI: PEI/RP1200, "Recommended Practice for Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities." PEI: PEI/RP1200, "Recommended Practice for Testing and Verification of Spill, Overfill, Leak Detection and Secondary Containment Equipment at UST Facilities" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Petroleum Equipment Institute at https://www.techstreet.com/pei/standards/pei-rp1200-17?product_id=1952629 at a cost of one hundred ninety-five dollars (\$195.00).
- ~~(n)~~(o) Steel Tank Institute (STI) ACT 100 F894, "Specifications for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks." Steel Tank Institute (STI) ACT 100 F894, "Specifications for External Corrosion Protection of FRP Composite Steel Underground Storage Tanks" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Steel Tank Institute, at ~~570 Oakwood Road, Lake Zurich, Illinois 60047~~<https://www.steeltank.com/Publications/STISPFASore/ProductDetail/tabid/502/rvdsfpid/act-100-specification-for-external-corrosion-protection-of-frp-composite-steel-usts-f894-2/Default.aspx> at a cost of ~~fiftysixty~~ dollars ~~(\$50.00).~~(\$60.00).
- ~~(o)~~(p) STI ACT 100-U F961, "Specifications for External Corrosion Protection of Composite Steel Underground Storage Tanks." STI ACT 100-U F961, "Specifications for External Corrosion Protection of Composite Steel Underground Storage Tanks" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Steel Tank ~~Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047~~
Institute at <https://www.steeltank.com/Publications/STISPFASore/ProductDetail/tabid/502/rvdsfpid/act-100u-specification-for-external-corrosion-protection-of-composite-steel-underground-storage-tanks-f961-250/Default.aspx> at a cost of ~~fiftysixty~~ dollars ~~(\$50.00).~~(\$60.00).
- ~~(p)~~(q) STI ~~922,F922,~~ "Specifications for Permatank." STI ~~922,F922,~~ "Specifications for Permatank" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Steel Tank ~~Institute, 570 Oakwood Road, Lake Zurich, Illinois 60047~~
Institute at <https://www.steeltank.com/Publications/STISPFASore/ProductDetail/tabid/502/rvdsfpid/permatank-f922-specification-for-permatank-231/Default.aspx> at a cost of ~~fiftysixty~~ dollars ~~(\$50.00).~~(\$60.00).
- ~~(q)~~(r) Underwriters UL 58, "Steel Underground tanks for Flammable and Combustible Liquids." UL 58, "Steel Underground tanks for Flammable and Combustible Liquids" is hereby incorporated by reference including subsequent amendments and editions. A copy may be

obtained from Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096 Laboratories at <https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=33920> at a cost of ~~four~~ five hundred ~~forty-five~~ and two dollars (~~\$445.00~~)-(\$502.00).

(s) UL 567, "~~Pipe~~" "Standard for Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings for Petroleum Products and LP Gas." UL 567, "~~Pipe~~" "Standard for Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings for Petroleum Products and LP Gas" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096 Laboratories at <https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=27791> at a cost of eight hundred ~~eighty-five~~ ninety-seven dollars (~~\$885.00~~)-(\$897.00).

(t) UL 567A, "Standard for Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings for Gasoline and Gasoline/Ethanol Blends with Nominal Ethanol Concentrations up to 85 Percent (E0 – E85)." UL 567A, "Standard for Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings for Gasoline and Gasoline/Ethanol Blends with Nominal Ethanol Concentrations up to 85 Percent (E0 – E85)" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Underwriters Laboratories at <https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=29197> at a cost of six hundred thirty-one dollars (\$631.00).

(u) UL 567B, "Standard for Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings for Diesel Fuel, Biodiesel Fuel, Diesel/Biodiesel Blends with Nominal Biodiesel Concentrations up to 20 Percent (B20), Kerosene, and Fuel Oil." UL 567B, "Standard for Emergency Breakaway Fittings, Swivel Connectors and Pipe-Connection Fittings for Diesel Fuel, Biodiesel Fuel, Diesel/Biodiesel Blends with Nominal Biodiesel Concentrations up to 20 Percent (B20), Kerosene, and Fuel Oil" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Underwriters Laboratories at <https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=29195> at a cost of four hundred and two dollars (\$402.00).

(s)(v) UL 971, "~~Nonmetallic~~" "Standard for Nonmetallic Underground Piping for Flammable Liquids;" "Liquids." UL 971, "Standard for Nonmetallic Underground Piping for Flammable Liquids" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from UL at <https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=7936> at a cost of four hundred and two dollars (\$402.00).

(w) UL 971A, "Outline of Investigation for Metallic Underground Fuel Pipe." UL 971A, "Outline of Investigation for Metallic Underground Fuel Pipe" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from UL at <https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=15373> at a cost of two hundred and twenty-five dollars (\$225.00).

~~(+)(x)~~ UL 1316, "~~Glass Fiber Reinforced Plastic~~"Standard for Fibre Reinforced Underground Storage Tanks for Petroleum Products, Alcohols, Flammable and Alcohol Gasoline Mixtures."Combustible Liquids." UL 1316, "~~Glass Fiber Reinforced Plastic~~"Standard for Fibre Reinforced Underground Storage Tanks for Petroleum Products, Alcohols, Flammable and Alcohol Gasoline Mixtures."Combustible Liquids" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096 Laboratories at <https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=35172> at a cost of four hundred ~~forty-five~~ and two dollars (\$445.00); ~~or (\$402.00).~~

~~(+)(y)~~ UL 1746, "External Corrosion Protection Systems for Steel Underground Storage Tanks." UL 1746, "External Corrosion Protection Systems for Steel Underground Storage Tanks" is hereby incorporated by reference including subsequent amendments and editions. A copy may be obtained from Underwriters Laboratories, 333 Pfingsten Road, Northbrook, Illinois 60062-2096 Laboratories at <https://www.shopulstandards.com/PurchaseProduct.aspx?UniqueKey=15742> at a cost of ~~eight~~ nine hundred ~~eighty-five~~ ninety-eight dollars (\$885.00); ~~or (\$998.00); and~~

- (2) Other appropriate codes or standards applicable at the time of UST system installation or replacement may be used provided they are developed by ACI, American National Standards Institute (ANSI), API, ASME, ASTM, NFPA, National Leak Prevention Association (NLPA), PEI, STI and UL.

*History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h);
Eff. November 1, ~~2007~~ 2007;
Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02O .0101

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

At line 6, please delete the comma after "North Carolina."

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02O .0101 is amended as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02O .0101 GENERAL**

4 (a) ~~The purpose of this Subchapter is to establish the requirements for financial responsibility for owners~~Owners
5 and operators of ~~underground storage tanks~~underground storage tank systems that are subject to regulation pursuant
6 to 40 CFR 280.10 and located in ~~North Carolina~~North Carolina, shall comply with the financial responsibility
7 requirements in this Subchapter.

8 (b) The Department of ~~Environment, Health, and Natural Resources~~Environmental Quality (Department), Division
9 of Waste Management (Division) shall administer the underground storage tank financial responsibility compliance
10 program for the State of North Carolina.

11 (c) Department staff may conduct inspections ~~as necessary~~ to ensure compliance with this Subchapter.

12
13 *History Note: Authority G.S. 143-215.3(a)(15); 143-215.94H; ~~143B-282(2)(h)~~143B-282(a)(2)(h);*

14 *Eff. July 1, 1992;*

15 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
16 *~~2018-2018;~~*

17 *Amended Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02O .0102

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

Please add an "and" after (16) if that was your intent.

Why is G.S. 12-3.1(c) listed in your history note? That statute relates to fees and this rule contains no fees.

In your history note, did you intend to list 143B-282(a)(2)(H) instead of 143B-282(2)(H)?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02O .0102 is amended as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02O .0102 ~~COPIES OF REFERENCED FEDERAL REGULATIONS~~ FINANCIAL**
4 **RESPONSIBILITY**

5 ~~(a) Copies of applicable Code of Federal Regulations sections incorporated in this Subchapter are available for~~
6 ~~inspection at Department of Environment, Health, and Natural Resources regional offices. They are:~~

7 ~~(1) Asheville Regional Office, Interchange Building, 59 Woodfin Place, Asheville, North Carolina~~
8 ~~28802;~~

9 ~~(2) Winston Salem Regional Office, Suite 100, 8025 North Point Boulevard, Winston Salem, North~~
10 ~~Carolina 27106;~~

11 ~~(3) Mooresville Regional Office, 919 North Main Street, Mooresville, North Carolina 28115;~~

12 ~~(4) Raleigh Regional Office, 3800 Barrett Drive, Post Office Box 27687, Raleigh, North Carolina~~
13 ~~27611;~~

14 ~~(5) Fayetteville Regional Office, Wachovia Building, Suite 714, Fayetteville, North Carolina 28301;~~

15 ~~(6) Washington Regional Office, 1424 Carolina Avenue, Farish Building, Washington, North~~
16 ~~Carolina 27889;~~

17 ~~(7) Wilmington Regional Office, 127 Cardinal Drive Extension, Wilmington, North Carolina 28405.~~

18 ~~(b) Copies of such regulations can be made at these regional offices for ten cents (\$0.10) per page. Individual~~
19 ~~complete copies may be obtained from the U.S. Environmental Protection Agency, Office of Underground Storage~~
20 ~~Tanks, Post Office Box 6044, Rockville, Maryland 20850 for no charge.~~

21 The governing Federal Regulations set forth below are hereby incorporated by reference excluding any subsequent
22 amendments and editions. Copies may be obtained at www.ecfr.gov/cgi-bin/ECFR?page=browse at no cost.

23 (1) 40 CFR 280.90, "Applicability";

24 (2) 40 CFR 280.91, "Compliance Dates";

25 (3) 40 CFR 280.94, "Allowable Mechanisms and Combinations of Mechanisms";

26 (4) 40 CFR 280.96, "Guarantee";

27 (5) 40 CFR 280.98, "Surety Bond";

28 (6) 40 CFR 280.99, "Letter of Credit";

29 (7) 40 CFR 280.102, "Trust Fund";

30 (8) 40 CFR 280.103, "Standby Trust Fund";

31 (9) 40 CFR 289.104, "Local Government Bond Rating Test";

32 (10) 40 CFR 280.105, "Local Government Financial Test";

33 (11) 40 CFR 280.106, "Local Government Guarantee";

34 (12) 40 CFR 280.107, "Local Government Fund";

35 (13) 40 CFR 280.108, "Substitution of Financial Assurance Mechanisms by Owner or Operator";

36 (14) 40 CFR 280.109, "Cancellation or Nonrenewal by a Provider of Financial Assurance";

37 (15) 40 CFR 280.110, "Reporting by Owner or Operator";

1 (16) 40 CFR 280.112, “Drawing on Financial Assurance Mechanisms”;

2 (17) 40 CFR 290.113. “Release from the Requirements”.

3
4 *History Note: Authority G.S. 12-3.1(c); 143-215.3(a)(15); 143B-282(2)(h);*

5 *Eff. July 1, 1992;*

6 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
7 *2018-2018;*

8 *Amended Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02O .0103

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

Since this is a repeal, please delete the rule text as shown in this formatting example:
<https://files.nc.gov/ncoah/documents/Rules/Examples---Permanent-Repeal-For-Publication-In-The-Ncac.pdf>

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02O .0103 is repealed as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02O .0103 SUBSTITUTED SECTIONS**

4 ~~(a) References to sections of the Federal Regulations incorporated by reference will refer to those sections and any~~
5 ~~subsequent amendments and editions.~~

6 ~~(b) References to 40 CFR 280.93 are to be taken as references to Rule .0204 of this Subchapter, with Paragraph~~
7 ~~correspondence being: 40 CFR 280.93(a) corresponds to 15A NCAC 2O .0204(a) and (b); 40 CFR 280.93(b)~~
8 ~~corresponds to 15A NCAC 2O .0204(c) and (d); 40 CFR 280.93(c) and (d) have no correspondence; and 40 CFR~~
9 ~~280.93(e), (f), (g), and (h) correspond to 15A NCAC 2O .0204(f), (g), (h), and (i), respectively.~~

10 ~~(c) References to 40 CFR 280.95 are to be taken as references to Rule .0302 of this Subchapter, with Paragraph~~
11 ~~correspondence being: 40 CFR 280.95(a), (e), (f), and (g) correspond to 15A NCAC 2O .0302(a), (e), (d), and (e),~~
12 ~~respectively; 40 CFR 280.95(b) and (c) correspond to 15A NCAC 2O .0302(b); 40 CFR 280.95(d) corresponds to~~
13 ~~15A NCAC 2O .0302(f) and (g).~~

14
15 *History Note: Authority G.S. 143-215.94H; 143-215.94T; 150B-21.6;*

16 *Eff. July 1, 1992;*

17 *Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6,*
18 *2018-2018;*

19 *Repealed Eff. January 1, 2021.*

1 15A NCAC 02O .0201 - .0202 are repealed through readoption as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02O .0201 APPLICABILITY**

4 **15A NCAC 02O .0202 COMPLIANCE DATES**

5
6 *History Note: Authority G.S. 143-215.94A; 143-215.94H; 143-215.94T; 150B-21.6;*

7 *Eff. July 1, ~~1992~~1992;*

8 *Repealed Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02O .0203

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

In your history note, please delete G.S. 150B-21.6. It is not necessary to list that statute to incorporate material by reference.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02O .0203 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02O .0203 DEFINITIONS**

4 (a) The definitions ~~contained in 15A NCAC 2N .0203 and 40 CFR 280.92~~ are hereby incorporated by ~~reference~~
5 ~~including any subsequent amendments and editions, reference,~~ except for "Director of the Implementing Agency",
6 "Occurrence", and "Financial Reporting Year". ~~Locations where this material is available are specified in Rule~~
7 ~~.0102 of this Subchapter as modified below. The federal regulation may be accessed at [www.ecfr.gov/cgi-](http://www.ecfr.gov/cgi-bin/ECFR?page=browse)~~
8 ~~[bin/ECFR?page=browse](http://www.ecfr.gov/cgi-bin/ECFR?page=browse) at no charge.~~

9 (1) "Director of the Implementing Agency" shall mean the Director of the Division of Waste
10 Management.

11 (2) "Financial reporting year" shall be modified to allow a compilation report to be used to support a
12 financial test. The compilation report shall be prepared by a Certified Public Accountant (CPA) or
13 Certified Public Accounting Firm (CPA Firm) as defined in 21 NCAC 08A .0301.

14 (b) The following definitions ~~are defined for the purposes of~~shall apply throughout this Subchapter:

15 (1) ~~"Annual Operating Fee" is an annual fee required to be paid by the owner or operator of each~~
16 ~~commercial underground storage tank, as defined in G.S. 143-215.94A, in use on or after January~~
17 ~~1 of the year, beginning with 1989.~~

18 (2) ~~"Dual Usage Tank" means an underground storage tank which has had varied usage which would~~
19 ~~cause the tank to be considered an underground storage tank regulated in accordance with 15A~~
20 ~~NCAC 2N during certain times and an unregulated tank during other times and for which both the~~
21 ~~regulated and unregulated usages were integral to the operation or existence of the tank.~~

22 (3) ~~"Director of the Implementing Agency" means the Director of the Division of Environmental~~
23 ~~Management of the Department of Environment, Health, and Natural Resources.~~

24 (4) ~~"Financial reporting year" means the latest consecutive twelve month period for which any of the~~
25 ~~following reports used to support a financial test is prepared:~~

26 (A) ~~a 10K report submitted to the SEC;~~

27 (B) ~~an annual report of tangible net worth submitted to Dun and Bradstreet;~~

28 (C) ~~annual reports submitted to the Energy Information Administration or the Rural~~
29 ~~Electrification Administration; or~~

30 (D) ~~a compilation report by a Certified Public Accountant or Certified Public Accounting~~
31 ~~Firm.~~

32 (5) ~~"Occurrence" means one or more releases which result(s) in a single plume of soil, groundwater,~~
33 ~~and/or surface water contamination (consisting of free product and/or associated dissolved~~
34 ~~contaminants exceeding standards established under 15A NCAC 2L .0202 or any other applicable~~
35 ~~laws, rules, or regulations) emanating from a given site.~~

1 (1) “Independent” Certified Public Accountant or Certified Public Accounting Firm shall mean a CPA
2 or CPA firm that examines the financial records and business transactions of an owner, operator or
3 guarantor for whom the CPA or CPA firm is not affiliated.

4 (2) “Financial assurance” shall mean per occurrence and annual aggregate amounts of financial
5 responsibility, collectively.

6
7 *History Note: Authority G.S. 143-215.94A; 143-215.94H; 150B-21.6;*
8 *Eff. July 1, ~~1992~~1992;*
9 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02O .0204

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

Just to be sure, I take (a) to explain how to calculate 143-215.94H(a)(2), but 143-215.94H(a)(1) would still apply if it were the lesser amount, correct?

In (a)(1) and (a)(2), please review the citations to G.S. 143-215.94(B)(b)(3) and (B)(b)(5). Are you referring to 143-215.94B(b)(3) and (b)(5)?

On page 2, line 6, please change "must" to "shall."

In (b), I take it you are referring back to the per occurrence amount as calculated in (a), correct?

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02O .0204 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02O .0204 AMOUNT AND SCOPE OF REQUIRED FINANCIAL RESPONSIBILITY**

4 ~~(a) Owners or operators of petroleum underground storage tanks located in North Carolina must demonstrate~~
5 ~~financial responsibility for at least one million dollars (\$1,000,000) per occurrence for taking corrective action and~~
6 ~~for compensating third parties for bodily injury and property damage caused by accidental releases arising from the~~
7 ~~operation of petroleum underground storage tanks.~~

8 ~~(b) Compliance with all laws, rules, and regulations relating to the Commercial Leaking Petroleum Underground~~
9 ~~Storage Tank Cleanup Fund shall constitute demonstration of financial responsibility for that amount specified in~~
10 ~~Paragraph (a) of this Rule which is in excess of the sum of the amounts required to be paid per occurrence by the~~
11 ~~owner or operator for cleanup and for third party claims.~~

12 ~~(c) Owners or operators of petroleum underground storage tanks located in North Carolina must demonstrate~~
13 ~~financial responsibility for taking corrective action and for compensating third parties for bodily injury and property~~
14 ~~damage caused by accidental releases arising from the operation of petroleum underground storage tanks in at least~~
15 ~~the following annual aggregate amounts:~~

16 (1) ~~For owners or operators of one to 100 petroleum underground storage tanks, one million dollars~~
17 ~~(\$1,000,000); and~~

18 (2) ~~For owners or operators of 101 or more petroleum underground storage tanks, two million dollars~~
19 ~~(\$2,000,000).~~

20 ~~(d) If all laws, rules, and regulations relating to the Commercial Leaking Petroleum Underground Storage Tank~~
21 ~~Cleanup Fund are complied with, the owner or operator may meet the financial responsibility requirements of~~
22 ~~Paragraph (c) of this Rule by providing an annual aggregate financial assurance of at least the sum of the amounts~~
23 ~~specified in Subparagraphs (d)(1), (2), and (3) of this Rule as follows, in addition to the assurance provided by the~~
24 ~~Commercial Fund:~~

25 (1) ~~The average maximum amount required to be paid by an owner or operator per occurrence for~~
26 ~~cleanup as determined in accordance with Paragraph (c) of this Rule;~~

27 (2) ~~The average maximum amount required to be paid by an owner or operator per occurrence for~~
28 ~~third party claims as determined in accordance with Paragraph (c) of this Rule; and~~

29 (3) ~~Three percent of the multiple of:~~

30 (A) ~~the amount in Subparagraph (d)(1) of this Rule; and~~

31 (B) ~~the number of tanks being covered.~~

32 ~~(e) An owner or operator providing financial assurance for more than one underground storage tank where the~~
33 ~~various tanks do not all require the same maximum amounts to be paid per occurrence for cleanup and/or third party~~
34 ~~claims shall calculate an average maximum amount to be paid per occurrence as follows:~~

35 (1) ~~Determine the maximum amount to be paid per occurrence for each underground storage tank~~
36 ~~being assured;~~

1 ~~(2) Sum the values determined in Subparagraph (e)(1) of this Rule and divide by the number of~~
2 ~~underground storage tanks being assured.~~

3 (a) Pursuant to G.S. 143-215.94H(a)(2), owners or operators shall maintain evidence of financial responsibility for
4 taking corrective action and for compensating third parties for bodily injury and property damage caused by
5 accidental releases arising from the operation of petroleum underground storage tanks. The minimum financial
6 responsibility that must be maintained per occurrence is determined by calculating the sum of the following:

7 (1) \$20,000 for taking corrective action to cleanup environmental damage pursuant to G.S. 143-
8 215.94(B)(b)(3);

9 (2) \$100,000 for compensating third parties for bodily injury and property damage pursuant to G.S.
10 143-215.94(B)(b)(5); and

11 (3) the multiple of \$600 and the number of petroleum underground storage tanks that an owner or
12 operator owns or operates in the state of North Carolina.

13 (b) The minimum financial responsibility that shall be maintained as an annual aggregate is equal to the per
14 occurrence amount.

15 ~~(f)(c) Owners or operators shall annually review the amount of aggregate financial assurance provided. The amount~~
16 ~~of required financial responsibility and annual aggregate assurance shall be adjusted at the time of the review to that~~
17 ~~required in Paragraphs (a), (b), (c), and (d) of this Rule. All changes in status, including installations and closures,~~
18 ~~shall be reported to the Department, and all fees due shall be paid in accordance with applicable laws, rules, and~~
19 ~~regulations review.~~

20 ~~(g)(d) If an owner or operator uses separate mechanisms or separate combinations of mechanisms to demonstrate~~
21 ~~financial responsibility for different petroleum underground storage tanks, the annual aggregate amount of financial~~
22 ~~assurance required shall be based on the number of tanks covered by each such separate mechanism or combination~~
23 ~~of mechanisms.~~

24 ~~(h)(e) The amount amount of financial assurance required under this Rule excludes legal defense costs.~~

25 ~~(i)(f) The required per occurrence and annual aggregate coverage amounts do amount of financial assurance does not~~
26 ~~in any way limit the liability of the owner or operator.~~

27 ~~(j)(g) Assurance~~ Evidence of financial responsibility for petroleum underground storage tanks located in North
28 Carolina ~~must~~ shall be provided separately from that provided for petroleum underground storage tanks not located
29 in North Carolina.

31 History Note: Authority G.S. 143-215.94H; 143-215.94T;

32 Eff. July 1, 1992-1992;

33 Readopted Eff. January 1, 2021.

1 15A NCAC 02O .0301 is repealed through readoption as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02O .0301 ALLOWABLE MECHANISMS AND COMBINATIONS OF MECHANISMS**

4
5 *History Note: Authority G.S. 143-215.94H; 150B-21.6;*

6 *Eff. July 1, ~~1992~~1992;*

7 *Repealed Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02O .0302

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

In (a), line 7, please add a comma after "operation."

In (b), line 10, please add a comma after "operator."

At line 12, please delete "or" and make this a list separated by commas, with a comma after "owner" and "operator."

In (b)(1), please change the colon to a semicolon.

In (b)(2), what are you requiring? (b) requires the owner, operator, or guarantor to meet the requirements in the following list. (b)(2) explains how to determine a cleanup cost factor but I do not see that it sets a requirement for the owner, operator, or guarantor. Is this correct? Please clarify.

At line 21, please change "and/or" to either "and" or "or."

In (b)(3), what are you requiring? (b) requires the owner, operator, or guarantor to meet the requirements in the following list. (b)(3) explains how to determine a third-party liability cost factor but I do not see that it sets a requirement for the owner, operator, or guarantor. Is this correct? Please clarify.

On page 2, line 6, please change "and/or" to either "and" or "or."

On page 3, line 24, please change "must" to "shall."

In (e), when incorporating materials by reference, please state whether you are including or excluding subsequent amendments or editions, where the material can be obtained, and at what cost. The standard language used is "[Document] is incorporated by reference, [including or excluding] subsequent amendments and editions. This document may be accessed at [link] at [no cost or dollar amount]."

Ashley Snyder
Commission Counsel

Date submitted to agency: November 25, 2020

In (f), line 8, please add a comma after “operator.”

In your history note, why is G.S. 58-2-205 listed? That statute grants authority to the Commissioner of Insurance.

In your history note, please delete 150B-21.6. It is not necessary to list that statute to incorporate materials by reference.

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

1 15A NCAC 02O .0302 is readopted with changes as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02O .0302 SELF INSURANCE**

4 ~~(a) Assurance of financial responsibility may be provided by an owner or operator or guarantor as a self insurer if~~
5 ~~the owner or operator has complied with all of the laws, rules, and regulations relative to the Commercial Leaking~~
6 ~~Petroleum Underground Storage Tank Cleanup Fund and the owner or operator or guarantor either establishes a~~
7 ~~Trust Fund as set out in Paragraph (h) of this Rule or qualifies to be a self insurer.~~An owner, operator or guarantor
8 may meet the financial responsibility requirements by passing the financial test specified in Paragraph (b) ~~of this~~
9 ~~Rule or a financial test of 40 CFR 280.95 of this Rule.~~

10 ~~(b) To qualify as an insurer, an~~An owner, ~~operator,~~operator or guarantor, individually or collectively, ~~must~~shall
11 meet the following criteria based on year-end financial statements for the latest completed fiscal year.

12 (1) The owner or ~~operator,~~operator or guarantor, individually or collectively ~~must~~shall have a total
13 tangible net worth of ~~at least~~at least \$150,000 and not more than \$3,000,000:

14 **(A)** ~~The sum of the amounts specified in Subparagraphs (b)(1)(A)(i) and (ii) of this Rule as~~
15 ~~follows, not to exceed three million dollars (\$3,000,000) and not to be less than one~~
16 ~~hundred fifty thousand dollars (\$150,000):~~

17 ~~(i) — the multiple of:~~

18 (2) A cleanup cost factor determined by multiplying the following:

19 ~~(I) — the number of tanks being covered by this mechanism;~~

20 (A) the number of petroleum underground storage tanks that an owner or operator owns
21 and/or operates in the state of North Carolina and that are covered by self-insurance.
22 USTs that are manifolded together are considered separate USTs. A multi-compartment
23 UST is considered one UST;

24 ~~(II) — the cleanup costs required to be paid by the owner or operator per~~
25 ~~occurrence in accordance with G.S. 143-215.94B(b);~~

26 (B) \$20,000 for taking corrective action to cleanup environmental damage pursuant to G.S.
27 143-215.94(B)(b)(3);

28 ~~(III) — the proportion of the required financial assurance required pursuant to~~
29 ~~Rule .0204 of this Subchapter being covered by this mechanism; and~~

30 (C) the proportion of financial assurance required pursuant to Rule .0204 of this Subchapter
31 being covered by self-insurance; and

32 ~~(IV) — a constant representing an average value per tank calculated from 0.05~~
33 ~~for each underground storage tank covered by this mechanism which is~~
34 ~~in compliance with any performance standards required on December~~
35 ~~22, 1998, and 0.18 for each underground storage tank covered by this~~
36 ~~mechanism which is not in compliance with any performance standards~~
37 ~~required on December 22, 1998.~~

- 1 (D) a constant equal to 0.05.
- 2 (ii) ~~two percent of the multiple of:~~
- 3 (3) A third party liability cost factor determined by multiplying the following:
- 4 (i) ~~the number of tanks being covered by this mechanism;~~
- 5 (A) the number of petroleum underground storage tanks that an owner or operator owns
- 6 and/or operates in the state of North Carolina and that are covered by self-insurance;
- 7 (ii) ~~the amount for third party claims required to be paid by the owner or~~
- 8 operator per occurrence in accordance with G.S. 143-215.94B(b);
- 9 (B) \$100,000 for compensating third parties for bodily injury and property damage pursuant
- 10 to G.S. 143-215.94(B)(b)(5); and
- 11 (iii) ~~the proportion of the required financial assurance required pursuant to~~
- 12 Rule .0204 of the Subchapter being covered by this mechanism;
- 13 (C) the proportion of financial assurance required pursuant to Rule .0204 of this Subchapter
- 14 being covered by self-insurance; and
- 15 (D) a constant equal to 0.02.
- 16 (B) ~~Any amount of tangible net worth used to assure financial responsibility for petroleum~~
- 17 underground storage tanks not located in North Carolina;
- 18 (4) The amount of tangible net worth used to assure financial responsibility for petroleum
- 19 underground storage tanks not located in North Carolina;
- 20 (C) ~~Ten times the sum of the corrective action cost estimates, the current closure and~~
- 21 post closure care cost estimates, and amount of liability coverage for Hazardous Waste
- 22 Management Facilities and Hazardous Waste Storage Facilities for which a financial test
- 23 is used to demonstrate financial responsibility to EPA under 40 CFR Parts 264.101,
- 24 264.143, 264.145, 265.143, 265.145, 264.147, and 265.147 or to a state implementing
- 25 agency under a state program authorized by EPA under 40 CFR Part 271; and
- 26 (5) Ten times the sum of the corrective action cost estimates (40 CFR 264.101(b)), the closure (40
- 27 CFR 264.143 and 265.143) and post-closure care (40 CFR 264.145 and 265.145) cost estimates,
- 28 and amount of liability coverage (40 CFR 264.147 and 265.147) for Hazardous Waste
- 29 Management Facilities and Hazardous Waste Storage Facilities for which a financial test is used to
- 30 demonstrate financial responsibility to EPA or to a State implementing agency under a State
- 31 program authorized by EPA under 40 CFR 271; and
- 32 (D) ~~Ten times the sum of current plugging and abandonment cost estimates for injection~~
- 33 wells for which a financial test is used to demonstrate financial responsibility to EPA
- 34 under 40 CFR Part 144.63 or to a state implementing agency under a state program
- 35 authorized by EPA under 40 CFR Part 145.
- 36 (6) Ten times the sum of current plugging and abandonment cost estimates for injection wells (40
- 37 CFR 144.63) for which a financial test is used to demonstrate financial responsibility to the EPA

1 under 40 CFR 144.63 or to a State implementing agency under a State program authorized by
2 EPA under 40 CFR Part 145.

3 ~~(2)~~(7) In addition to any other requirements of this Section, a ~~Guarantor must~~guarantor shall have a net
4 worth of at least ~~two hundred thousand dollars (\$200,000)~~\$200,000 greater than any tangible net
5 worth used by the guarantor in ~~Subparagraph (b)(1) of this Rule.~~Subparagraph (1) of this
6 Paragraph.

7 ~~(3)~~ — ~~The owner or operator, or guarantor, individually or collectively, must each have a letter signed by~~
8 ~~the chief financial officer, worded as specified in Paragraph (g) of this Rule, and must do one of~~
9 ~~the following:~~

10 ~~(A) — Obtain annually a compilation report issued by an independent certified public~~
11 ~~accountant or certified public accounting firm;~~

12 ~~(B) — File financial statements annually with the U.S. Securities and Exchange Commission,~~
13 ~~the Energy Information Administration, or the Rural Electrification Administration; or~~

14 ~~(C) — Report annually the firm's tangible net worth to Dun and Bradstreet, and Dun and~~
15 ~~Bradstreet must have assigned the firm a financial strength rating of 4A or 5A.~~

16 (c) The owner or ~~operator,~~operator or guarantor, individually or collectively, ~~must~~shall each have a letter signed by
17 the chief financial officer, worded as specified in Paragraph (g) of this Rule, and ~~must~~shall do one of the following:

18 (1) Obtain annually a compilation report issued by an independent certified public accountant or
19 certified public accounting firm;

20 (2) ~~File~~Pursuant to 40 CFR 280.95(b)(4)(i), file financial statements annually with the U.S. Securities
21 and Exchange Commission, the Energy Information Administration, or the Rural Electrification
22 Administration; or

23 (3) ~~Report~~Pursuant to 40 CFR 280.95(b)(4)(ii), report annually the firm's tangible net worth to Dun
24 and Bradstreet, and Dun and Bradstreet must have assigned the firm a financial strength rating of
25 4A or 5A.

26 ~~(4) — The firm's year-end financial statements must be independently compiled and cannot include an~~
27 ~~adverse accountant's report or a "going concern" qualification.~~

28 ~~(d) The firm's year-end financial statements cannot include an adverse accountant's report or a "going concern"~~
29 ~~qualification.~~

30 ~~(e)(c) If an owner or operator is acting as a self insurer in accordance with Paragraph (b) of this Rule and finds that~~
31 ~~he or she no longer meets the requirements of the test in Paragraph (b) of this Rule based on the year end financial~~
32 ~~statements, the owner or operator must obtain alternative coverage within 150 days of the end of the year for which~~
33 ~~financial statements have been prepared. 40 CFR 280.95(d), (e), (f) and (g) are incorporated by reference except that~~
34 ~~"financial test" means the financial test specified in Paragraph (b) of this Rule.~~

35 ~~(d) The Department may require reports of financial condition at any time from a guarantor and from an owner or~~
36 ~~operator who is self insuring. If the Department finds, on the basis of such reports or other information, that the~~

~~owner, operator, or guarantor no longer meets the financial test requirements of Paragraph (b) of this Rule, the owner or operator must obtain alternate coverage within 30 days after notification of such a finding.~~

~~(e) If the owner or operator fails to obtain alternate assurance within 150 days of finding that he or she no longer meets the requirements of the financial test based on the year end financial statements, or within 30 days of notification by the Department that he or she no longer meets the requirements of the financial test, the owner or operator must notify the Department of such failure within 10 days.~~

(f) To demonstrate that it meets the financial test under Paragraph (b) of this Rule, the chief financial officer of each ~~owner or owner,~~ operator or guarantor ~~must~~shall sign, within 120 days of the close of each financial reporting year, as defined by the 12-month period for which financial statements used to support the financial test are prepared, a letter worded exactly as in Paragraph (g) of this Rule, except that the instructions in brackets are to be replaced by the relevant information and the brackets deleted.

(g) LETTER FROM CHIEF FINANCIAL OFFICER

I, [insert: name of chief financial officer], the chief financial officer of [insert: name and address of the ~~owner or operator,~~owner, operator or guarantor] have prepared this letter in support of the use of [insert: "the financial test of self-insurance," and/or "guarantee"] to demonstrate financial responsibility for [insert: "taking corrective action" or "compensating third parties for bodily injury and property damage"] caused by [insert: "sudden accidental releases" and/or "nonsudden accidental releases"] in the amount of at least [insert: dollar amount] per occurrence and [insert: dollar amount] annual aggregate arising from operating (an) underground storage tank(s).

Underground storage tanks at the following facilities are assured by this financial test by this [insert: "owner or operator," or "guarantor"]:

[List or attach the following information for each facility: the name and address of the facility where tanks assured by this financial test are ~~located,~~located and facility number(s) assigned by the ~~Department, and date(s) of last payment of annual tank operating fee(s).~~Department. If separate mechanisms or combinations of ~~mechanisms, other than the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund~~mechanisms are being used to assure any of the tanks at this facility, list each tank assured by this financial test.]

[When appropriate, include the following for Hazardous Waste Management Facilities, Hazardous Waste Storage Facilities, and Injection Wells:

A ~~{insert: "financial test," or "guarantee"}~~[insert: "financial test" or "guarantee"] is also used by this ~~{insert: "owner or operator," or "guarantor"}~~[insert: "owner, operator" or "guarantor"] to demonstrate evidence of financial responsibility in the following amounts under EPA regulations or state programs authorized by EPA under 40 CFR Parts 271 and 145:

EPA Regulations	Amount
Closure (including □264.143 and □265.143) <u>40 CFR 264.143 and 265.143</u>)	\$ _____
Post-Closure Care (including □264.145 and □265.145) <u>40 CFR 264.145 and 265.145</u>)	\$ _____
Liability Coverage (including □264.147 and □265.147) <u>40 CFR 264.147 and 265.147</u>)	\$ _____
Corrective Action (including □264.101(b)) <u>40 CFR 264.101(b)</u>)	\$ _____
Plugging and Abandonment (including □144.63) <u>40 CFR 144.63</u>)	\$ _____

1	Total	\$ _____]
2	This [insert: "owner or operator," "owner, operator" or "guarantor"] has not received an adverse report or a "going	
3	concern" qualification from an independent accountant on his financial statements for the latest completed fiscal	
4	year.	
5		
6	1. a. Number of USTs being covered	_____
7	b. Average maximum amount of cleanup costs	_____
8	(Rule .0204(d)(1))	
9	c. Average maximum amount of third party costs	_____
10	(Rule .0204(d)(2))	
11	d. Proportion covered	_____
12	e. Constant (Rule .0302(b)(1)(A)(i))	_____
13	f. Cleanup Total (a x b x d x e)	\$ _____
14	g. Third Party Total (0.02 x a x e x d)	\$ _____
15	h. If Guarantor, list \$200,000	\$ _____
16	2. Tangible assets applied to USTs not in North Carolina	\$ _____
17	3. Ten times the costs for Hazardous Waste Facilities and Injections Wells	\$ _____
18	4. Sum of lines 1f, 1g, 1h, and 2	\$ _____
19	5. Total tangible assets	\$ _____
20	6. Total liabilities [if any of the amount reported on line 4 is included in total liabilities,	
21	you may deduct that amount from this line and add that amount to line 7]	
22	7. Tangible net worth [subtract line 6 from line 5]	\$ _____
23	1. a. Number of USTs in North Carolina being covered	_____
24	b. Proportion covered	_____
25	c. Cleanup cost factor (multiply 0.05 x \$20,000 x #1a and #1b)	\$ _____
26	d. Third party liability cost factor (multiply 0.02 x \$100,000 x #1a and #1b)	\$ _____
27	2. Cleanup and third-party liability cost factor total (sum of #1c and #1d)	\$ _____
28	3. Guarantor factor (enter \$200,000, if guarantor)	\$ _____
29	4. Net worth used to assure environmental liabilities for Hazardous Waste Management Facilities,	
30	Hazardous Waste Storage Facilities, and Injection Wells multiplied by 10	
31	5. Net worth used to assure environmental liabilities for USTs outside of North Carolina	\$ _____
32	6. Total net worth required to self-insure or to be a guarantor (sum of #2, #3, #4 and #5)	\$ _____
33	7. Total tangible assets	\$ _____
34	8. Total liabilities (if any of the amount reported for #6 is included in total liabilities, you may	
35	deduct that amount from this line and add that amount to #9)	
36	9. Tangible net worth (subtract #8 from #7)	\$ _____
37		Yes No

1 ~~8-10.~~ Is line ~~79~~ at least [for an owner or operator: \$150,000; for a guarantor: \$350,000]? _____
 2 ~~9-11.~~ Is line ~~79~~ equal to or greater than line ~~426~~? _____
 3 ~~10-12.~~ Has a compilation report been issued by an independent certified public accountant or certified
 4 public accounting firm? _____
 5 ~~11-13.~~ Have financial statements for the latest fiscal year been filed with the Securities
 6 and Exchange Commission? _____
 7 ~~12-14.~~ Have financial statements for the latest fiscal year been filed with the Energy Information
 8 Administration? _____
 9 ~~13-15.~~ Have financial statements for the latest fiscal year been filed with the Rural Electrification
 10 Administration? _____
 11 ~~14-16.~~ Has financial information been provided to Dun and Bradstreet, and has Dun and
 12 Bradstreet provided a financial strength rating of 4A or 5A? [Answer "Yes" only
 13 if both criteria have been met] _____

14
 15 I hereby certify that the wording of this letter is identical to the wording specified in 15A NCAC 2O .0302, as such
 16 regulations were constituted on the date shown immediately below, and that the information contained herein is
 17 complete and accurate.

18
 19 [Signature of chief financial officer]
 20 [Name]
 21 [Title]
 22 [Date]

23
 24 ~~(h) The provisions for "Trust Fund" contained in 40 CFR 280.102 are hereby incorporated by reference including~~
 25 ~~any subsequent amendments and editions. Locations where this material is available are specified in Rule .0102 of~~
 26 ~~this Subchapter.~~

27
 28 *History Note: Authority G.S. 58-2-205; 143-215.94H; 150B-21.6;*
 29 *Eff. August 3, ~~1992~~1992;*
 30 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02O .0303 is repealed through readoption as published in 35:4 NCR 426 as follows:

2

3 **15A NCAC 02O .0303 GUARANTEE**

4

5 *History Note: Authority G.S. 143-215.94H; 150B-21.6;*

6 *Eff. July 1, ~~1992~~, 1992;*

7 *Repealed Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02O .0304

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

In your history note, why is 150B-21.6 listed? It is not necessary to list that statute when incorporating materials by reference.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02O .0304 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02O .0304 INSURANCE AND RISK RETENTION GROUP COVERAGE**

4 ~~The provisions for "Insurance and Risk Retention Group Coverage" contained in 40 CFR 280.97 entitled "Insurance~~
5 ~~and Risk Retention Group Coverage" are hereby~~ incorporated by ~~reference including~~reference, ~~excluding~~ any
6 subsequent amendments and editions,—except that "licensed to transact the business of insurance or eligible to
7 provide insurance as an excess or surplus lines insurer in one or more states" in ~~□□280.97(b)(1), 40 CFR~~
8 ~~280.97(b)(1),~~ (b)(2), and (c) is replaced by "licensed, registered, or otherwise authorized to provide insurance in
9 North Carolina". ~~Locations where this material is available are specified in Rule .0102 of this Subchapter. This~~
10 ~~document may be accessed at www.ecfr.gov/cgi-bin/ECFR?page=browse at no charge. The requirements in 40 CFR~~
11 ~~280.97 shall be met to demonstrate financial responsibility by insurance pursuant to G.S. 143-215.94H.~~

12
13 *History Note:* Authority ~~G.S. 58-2-125; 58-22; 143-215.94H; 150B-21.6;~~

14 ~~Eff. July 1, 1992; 1992;~~

15 Readopted Eff. January 1, 2021.

1 15A NCAC 02O .0305 - .0307 are repealed through readoption as published in 35:4 NCR 426 as follows:

2

3 **15A NCAC 02O .0305 SURETY BOND**

4 **15A NCAC 02O .0306 LETTER OF CREDIT**

5 **15A NCAC 02O .0307 STANDBY TRUST FUND**

6

7 *History Note: Authority G.S. 143-215.94H; 150B-21.6;*

8 *Eff. July 1, ~~1992~~1992;*

9 *Repealed Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02O .0308

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

Throughout this Rule, why is "Insurance Pool" capitalized?

At line 10, is it necessary to say "at a minimum?" Rules always set minimum requirements.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02O .0308 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02O .0308 INSURANCE POOLS**

4 (a) Insurance Pools established by owners and operators may be used alone or in combination to demonstrate
5 financial assurance in accordance with ~~Rules .0204 and .0301~~ Rule .0204 of this Subchapter.

6 (b) To be an eligible ~~mechanism,~~ mechanism for demonstrating financial assurance, Insurance Pools ~~must~~ shall
7 comply with the requirements of ~~G.S. 143-215.94I and any other requirements imposed by the Commissioner of~~
8 ~~Insurance of the State of North Carolina and any relevant law, rule, or regulation.~~ G.S. 143-215.94I.

9 (c) Each owner and operator ~~provided~~ providing financial assurance through an Insurance Pool ~~must~~ shall maintain a
10 certificate of insurance issued by the Insurance Pool ~~listing, at least,~~ that lists at a minimum the following
11 information:

- 12 (1) the name and address of the member;
- 13 (2) the location of the facilities owned by that member where underground storage tanks are being
14 insured by the pool;
- 15 (3) the number of insured underground storage tanks at each facility;
- 16 (4) the capacity of each insured underground storage tank;
- 17 (5) the amount of insurance provided for each underground storage tank; and
- 18 (6) the name, address, and signature of the Administrator of the Insurance Pool.

19
20 *History Note:* *Authority G.S. 143-215.94H; 143-215.94I;*
21 *Eff. July 1, ~~1992,~~ 1992;*
22 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02O .0311-.0316

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

These rules were filed as repeals through readoption but are not required to be readopted and should therefore be formatted as repeals. Please update Box 3 of your filing form and change the introductory statement as shown here: <https://files.nc.gov/ncoah/documents/Rules/Examples--Permanent-Repeal-Of-Consecutive-Rules-For-Publication-In-The-Ncac.pdf>

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02O .0311 - .0316 are repealed through readoption as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02O .0311 LOCAL GOVERNMENT BOND RATING TEST**

4 **15A NCAC 02O .0312 LOCAL GOVERNMENT FINANCIAL TEST**

5 **15A NCAC 02O .0313 LOCAL GOVERNMENT GUARANTEE**

6 **15A NCAC 02O .0314 LOCAL GOVERNMENT FUND**

7 **15A NCAC 02O .0315 SUBSTITUTION OF FINANCIAL ASSURANCE MECHANISMS**

8 **15A NCAC 02O .0316 CANCELLATION OR RENEWAL BY A PROVIDER OF ASSURANCE**

9
10 *History Note: Authority G.S. 143-215.94H; 150B-21.6;*

11 *Eff. June 1, ~~2017~~2017;*

12 *Repealed Eff. January 1, 2021.*

1 15A NCAC 02O .0401 is repealed through readoption as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02O .0401 REPORTING BY OWNER OR OPERATOR**

4
5 *History Note: Authority G.S. 143-215.94H; 150B-21.6;*

6 *Eff. July 1, ~~1992~~, 1992;*

7 *Repealed Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02O .0402

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

In your history note, please delete 150B-21.6. It is not necessary to list this statute to incorporate a document by reference.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02O .0402 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02O .0402 RECORD KEEPING**

4 (a) ~~The provisions for "Record Keeping" contained in 40 CFR 280.107280.111~~
5 ~~entitled "Record Keeping" are hereby~~ incorporated by ~~reference including any~~reference, ~~excluding~~ subsequent
6 amendments and editions. ~~Locations where this material is available are specified in Rule .0102 of this~~
7 ~~Subchapter.~~This document may be accessed at www.ecfr.gov/cgi-bin/ECFR?page=browse at no charge.

8 (b) In addition to the requirements incorporated in Paragraph (a) of this Rule, ~~the following are required as evidence~~
9 ~~of financial responsibility:~~an owner or operator using an Insurance Pool as a financial assurance mechanism in
10 accordance with Rule .0308 of this Subchapter, shall maintain a copy of the signed insurance certificate as specified
11 in Rule .0308(c) of this Subchapter.

12 (1) ~~An owner or operator using an "Insurance Pool" must maintain a copy of the signed insurance~~
13 ~~certificate as specified in Rule .0308(c) of this Subchapter.~~

14 (2) ~~Each owner or operator must maintain copies of cancelled checks for payment of annual tank~~
15 ~~operating fees for the preceding three years or any alternate evidence of payment of the annual~~
16 ~~operating fees supplied by the Department.~~

17
18 *History Note: Authority G.S. 143-215.94H; 150B-21.6;*

19 *Eff. July 1, 1992, 1992;*

20 *Readopted Eff. January 1, 2021.*

1 15A NCAC 02O .0501 - .0502 are repealed through readoption as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02O .0501 DRAWING ON FINANCIAL ASSURANCE MECHANISMS**

4 **15A NCAC 02O .0502 RELEASE FROM THE REQUIREMENTS**

5
6 *History Note: Authority G.S. 143-215.94H; 150B-21.6;*

7 *Eff. July 1, ~~1992~~, 1992;*

8 *Repealed Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02O .0503

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

Please review the citation to "Subsection 280.110(d)" at line 6. That is no longer part of the CFR being incorporated.

In your history note, please delete 150B-21.6.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02O .0503 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02O .0503 INCAPACITY OF OWNER OR OPERATOR OR PROVIDER OF ASSURANCE**

4 (a) ~~The provisions for "Bankruptcy or Other Incapacity of Owner or Operator or Provider of Financial Assurance"~~
5 ~~contained in 40 CFR 280.110, 280.114 entitled "Bankruptcy or Other Incapacity of Owner or Operator or~~
6 ~~Provider of Financial Assurance, except for Subsection 280.110(d), are hereby~~ is incorporated by reference
7 ~~including any reference, excluding subsequent amendments and editions. Locations where this material is available~~
8 ~~are specified in Rule .0102 of this Subchapter. This document may be accessed at [www.ecfr.gov/cgi-](http://www.ecfr.gov/cgi-bin/ECFR?page=browse)~~
9 ~~bin/ECFR?page=browse~~ at no charge.

10 (b) Within 30 days after receipt of notification that the Commercial Leaking Petroleum Underground Storage Tank
11 Cleanup Fund has become incapable of paying for assured corrective action or third-party compensation costs, the
12 owner or operator ~~must~~ shall obtain financial assurance for the full amounts specified in ~~Rule .0204, Paragraphs (a)~~
13 ~~and (c), of this Subchapter.~~ 40 CFR 280.93.

14 (c) ~~Within 30 days after receipt of notification that the Noncommercial Leaking Petroleum Underground Storage~~
15 ~~Tank Cleanup Fund has become incapable of paying for additional cleanup actions to be undertaken by the~~
16 ~~Department, any owner or operator or guarantor who self insures or guarantees based on Rule .0302, Paragraph (b),~~
17 ~~of this Subchapter must obtain financial assurance for at least twice the amount specified in Rule .0204, Paragraph~~
18 ~~(d), of this Subchapter assured in accordance with Rule .0302, Paragraph (b), of this Subchapter.~~

19
20 *History Note:* Authority *G.S. 143-215.94H; 143-215.94T; 150B-21.6;*
21 *Eff. July 1, ~~1992~~, 1992;*
22 *Readopted Eff. January 1, 2021.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02O .0504

DEADLINE FOR RECEIPT: December 11, 2020

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

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

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

In your history note, please delete 150B-21.6. It is not necessary to list that statute to incorporate materials by reference.

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

Ashley Snyder
Commission Counsel
Date submitted to agency: November 25, 2020

1 15A NCAC 02O .0504 is readopted as published in 35:4 NCR 426 as follows:

2
3 **15A NCAC 02O .0504 REPLENISHMENT**

4 (a) ~~The provisions for "Replenishment of Guarantees, Letters of Credit, or Surety Bonds" contained in 40 CFR~~
5 ~~280.111 are hereby~~280.115 entitled "Replenishment of Guarantees, Letters of Credit, or Surety Bonds" is
6 incorporated by ~~reference including any~~reference, excluding subsequent amendments and editions. ~~Locations where~~
7 ~~this material is available are specified in Rule .0102 of this Subchapter.~~This document may be accessed at
8 www.ecfr.gov/cgi-bin/ECFR?page=browse at no charge.

9 (b) If ~~at any time after~~ a standby trust (40 CFR 280.103) is funded upon the instruction of the Department with
10 funds drawn from a ~~guarantee, guarantee~~ (40 CFR 280.96), letter of ~~credit, credit~~ (40 CFR 280.99), or surety
11 ~~bond, bond~~ (40 CFR 280.98), and the amount in the standby trust is reduced to less than the amount for which the
12 owner or operator is responsible per occurrence for third party claims, the owner or operator shall within 60 days
13 from which the funds were drawn:

- 14 (1) ~~Replenish~~replenish the value of financial assurance to equal the full amount of coverage ~~required,~~
15 ~~or required pursuant to Rule .0204 of this Subchapter; or~~
16 (2) ~~Acquire~~acquire another financial assurance mechanism for ~~the full amount of coverage provided~~
17 ~~by the Standby Trust; the amount by which funds in the standby trust fund have been reduced.~~

18
19 *History Note: Authority G.S. 143-215.94H; 143-215.94T; 150B-21.6;*
20 *Eff. July 1, 1992, 1992;*
21 *Readopted Eff. January 1, 2021.*