

1 15A NCAC 02N .0101 is amended as published in 31:09 NCR 810-824 as follows:

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

4 (a) The purpose of this Subchapter is to establish the technical standards and corrective action requirements for owners and
5 operators of underground storage tanks.

6 (b) The ~~Groundwater~~ UST Section of the Division of ~~Environmental~~ Waste Management shall administer the underground
7 storage tank program for the State of North Carolina.

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

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

11 Eff. January 1, 1991.

12 Amended Eff. June 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0102

DEADLINE FOR RECEIPT: Friday, April 7, 2017

PLEASE NOTE: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

On line 5, by specifying the date, please confirm that the agency does not intend to incorporate subsequent amendments or editions.

Line 5, add "for this Subchapter" after "13, 2015)"

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Thursday, March 23, 2017

1 15A NCAC 02N .0102 is amended with changes as published in 31:09 NCR 810-824 as follows:

2
3 **15A NCAC 02N .0102 COPIES OF REFERENCED FEDERAL REGULATIONS**

4 (a) Copies of the applicable Code of Federal Regulations Regulations, Sections 40 CFR 280.10-280.252 and Appendices
5 Part 280 (80 FR 41624 – 41625, October 13, 2015), may be obtained at www.ecfr.gov/cgi-bin/ECFR?page=browse at no
6 cost, sections referred to in this Subchapter are available for public inspection at Department of Environment, Health and
7 Natural Resources regional offices. They are:

- 8 — (1) — ~~Asheville Regional Office, Interchange Building, 59 Woodfin Place, Post Office Box 370, Asheville, North~~
9 ~~Carolina 28802;~~
10 — (2) — ~~Winston Salem Regional Office, Suite 100, 8025 North Point Boulevard, Winston Salem, North Carolina~~
11 ~~27106;~~
12 — (3) — ~~Mooresville Regional Office, 919 North Main Street, Mooresville, North Carolina 28115;~~
13 — (4) — ~~Raleigh Regional Office, 3800 Barrett Drive, Post Office Box 27687, Raleigh, North Carolina 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 Carolina 27889;~~
16 — (7) — ~~Wilmington Regional Office, 7225 Wrightsville Avenue, Wilmington, North Carolina 28403.~~

17 (b) ~~Copies of such regulations can be made at these regional offices for ten cents (\$0.10) per page.~~

18
19 *History Note:* ~~Statutory Authority G.S. 12-3.1(e); 143-215.3(a)(15); 143B-282(2)(h)~~ 143B-282(a)(2)(h);
20 Eff. January 1, 1991;
21 Amended Eff. June 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0103, 15A NCAC 02O .0309, .0310

DEADLINE FOR RECEIPT: Friday, April 7, 2017

PLEASE NOTE: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

On the Submission for Permanent Rule form, the justification for the agency's rulemaking set forth in box 9B is the same for each rule. Please just review and confirm that these identified repeals do not need any additional justification by the agency.

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Thursday, March 23, 2017

1 15A NCAC 02N .0103 is repealed as published in 31:09 NCR 810-824 as follows:

2

3 **15A NCAC 02N .0103 ADOPTION BY REFERENCE UPDATES**

4

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

6 *Eff. January 1, 1991.*

7 *Repealed Eff. June 1, 2017.*

1 15A NCAC 02N .0104 is amended as published in 31:09 NCR 810-824 as follows:

2
3 **15A NCAC 02N .0104 IDENTIFICATION OF TANKS**

4 (a) Owners and operators shall maintain at each ~~facility~~ underground storage tank location a current diagram that ~~clearly~~
5 indicates, for each underground storage tank:

6 (1) location with respect to property boundaries and any permanent on-site structures;

7 (2) total storage capacity, in gallons;

8 (3) the exact type of petroleum product (such as unleaded gasoline, No. 2 fuel oil, diesel) or hazardous
9 substance stored; and

10 (4) the year the tank was installed.

11 (b) The diagram shall be made available for ~~inspection, inspection during normal operating hours,~~ to authorized
12 representatives of the ~~Department~~ Division.

13
14 *History Note:* ~~Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h)~~ 143B-282(a)(2)(h);
15 *Eff. January 1, 1991; 1991;*
16 *Amended Eff. June 1, 2017.*

1 15A NCAC 02N .0201 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The ~~provisions for regulations governing "Applicability" contained set forth~~ in 40 CFR 280.10 (Subpart A) are hereby
5 incorporated by ~~reference~~ reference, ~~including subsequent amendments and editions~~ except that:

6 (1) Underground storage tanks (UST) containing de ~~minimis~~ minimis concentrations of regulated
7 substances are also subject to the requirements for permanent closure in Rules .0802 and .0803 of this
8 Subchapter;

9 ~~(2) UST systems defined at 40 CFR 280.10(e) are exempted from meeting the requirements of Section~~
10 ~~.0900 of this Subchapter; and~~

11 ~~(3) (2)~~ (2) UST systems ~~defined at 40 CFR 280.10(d) are subject to all of that~~ store fuel solely for use by
12 emergency power generators installed on or after November 1, 2007 shall also meet the requirements
13 of Section .0900 of this Subchapter.

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0202

DEADLINE FOR RECEIPT: Friday, April 7, 2017

PLEASE NOTE: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5, the quotation mark before "Interim" should be struck through

Line 5, add a quotation mark before "Installation"

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Thursday, March 23, 2017

1 15A NCAC 02N .0202 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

5 The ~~provisions for regulations governing "Interim Prohibition for deferred~~ Installation requirements for partially excluded
6 UST systems" ~~contained set forth in 40 CFR 280.11 (Subpart A) have been adopted by reference in accordance with G.S.~~
7 ~~150B-14(e)~~ are hereby incorporated by reference.

8
9 *History Note: ~~Statutory~~ Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;*
10 *Eff. January 1, ~~1991~~ 1991;*
11 *Amended Eff. June 1, 2017.*

1 15A NCAC 02N .0203 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 (a) The regulations governing definitions "Definitions" ~~contained set forth~~ in 40 CFR 280.12 (Subpart A) are hereby
5 incorporated by ~~reference~~ reference, ~~including subsequent amendments and editions except that that:~~ [40 CFR 280.12
6 "UST system" shall be changed to read "'UST system' or 'Tank system' means an underground storage tank, connected
7 underground piping, underground ancillary equipment, dispenser, and containment system, if any."]

8 (1) 40 CFR 280.12 "UST system" shall be changed to read "'UST system' or 'Tank system' means an
9 underground storage tank, connected underground piping, underground ancillary equipment,
10 dispenser, and containment system, if any." ~~any."~~ any";

11 (2) 40 CFR 280.12 "Class A operator" shall not be incorporated by reference;

12 (3) 40 CFR 280.12 "Class B operator" shall not be incorporated by reference;

13 (4) 40 CFR 280.12 "Class C operator" shall not be incorporated by reference;

14 (5) 40 CFR 280.12 "Replaced" shall not be incorporated by reference; and

15 (6) 40 CFR 280.12 "Secondary containment or secondarily contained" shall not be incorporated by
16 reference.

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

18 (1) "Implementing agency" shall mean the "Division of Waste Management."

19 (2) "Division" shall mean the "Division of Waste Management."

20 (3) "Director" and "Director of the Implementing Agency" shall mean the "Director of the Division of
21 Waste Management."

22 (c) The following definitions shall apply throughout this Subchapter:

23 (1) "De minimis concentration" means the amount of a regulated substance ~~which that~~ does not exceed
24 one percent (1%) of the capacity of a tank, excluding piping and vent lines.

25 (2) "Expediently emptied after use" means the removal of a regulated substance from an emergency spill
26 or overflow containment UST system within 48 hours after ~~the necessity for~~ use of the UST system
27 has ceased.

28 (3) "Previously closed" means:

29 (A) An UST system from which all regulated substances had been removed, the tank had been
30 filled with a solid inert material, and tank openings ~~were~~ had been sealed or capped prior to
31 December 22, 1988; or

32 (B) An UST system removed from the ground prior to December 22, 1988.

33 (4) "Temporarily closed" means:

34 (A) An UST system from which the product has been removed such that not more than one inch
35 of product and residue are present in any portion of the tank; or

36 (B) Any UST system in use as of December 22, 1988 ~~which that~~ complies with the provisions of
37 15A NCAC 2N .0801 ~~.0801~~ .0801.

- 1 (5) "Secondary containment" means a method or combination of methods of release detection for UST
2 systems that includes:
- 3 (A) For tank installations or replacements completed prior to November 1, 2007, double-walled
4 construction and external liners (including vaults);
- 5 (B) For underground piping installations or replacements completed prior to November 1, 2007,
6 trench liners and double-walled construction;
- 7 (C) For tank installations or replacements completed on or after November 1, 2007, double-
8 walled construction and interstitial release detection monitoring ~~which~~ that meet the
9 requirements of Section .0900 of this Subchapter; and
- 10 (D) For all other UST system component installations or replacements completed on or after
11 November 1, 2007, double-walled construction or containment within a liquid-tight ~~sump,~~
12 sump and interstitial release detection monitoring ~~which~~ that meet the requirements of
13 Section .0900 of this Subchapter. Upon written request, the ~~The~~ Division shall approve other
14 methods of secondary containment for connected piping that it determines are capable of
15 meeting the requirements of Section .0900 of this Subchapter.
- 16 (6) "Interstitial space" means the opening formed between the inner and outer wall of an UST system with
17 double-walled construction or the opening formed between the inner wall of a containment sump and
18 the UST system component that it contains.
- 19 (7) "Replace" means to remove an UST system or UST system component and to install another UST
20 system or UST system component in its place.
- 21 (8) "UST system component or tank system component" means any part of an UST system.
- 22

23 *History Note: Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;*
24 *Eff. January 1, 1991;*
25 *Temporary Amendment Eff. January 7, 1991 For a Period of 180 Days to Expire on July 6, 1991;*
26 *Temporary Amendment Expired July 6, 1991;*
27 *Amended Eff. June 1, 2017; November 1, 2007.*

1 15A NCAC 02N .0301 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

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

- 7 (1) 40 CFR 280.20(a)(4) ~~is shall~~ not ~~be~~ incorporated by reference;
8 (2) 40 CFR 280.20(b)(3) ~~is shall~~ not ~~be~~ incorporated by reference; and
9 (3) UST system or UST system component installations or replacements completed on or after November
10 1, 2007, shall also meet the requirements of Section .0900 of this Subchapter.

11 (b) No UST system shall be installed within 100 feet of a well serving a public water system, as defined in ~~15A NCAC~~
12 ~~48C-0102~~ G.S. 130A-313(10), or within 50 feet of any other well supplying water for human consumption.

13 (c) An UST system existing on January 1, ~~1991~~ 1991, and located within the area described in Paragraph (b) of this
14 ~~Rule~~, Rule may be replaced with a new tank meeting the performance standards of 40 CFR 280.20 and the secondary
15 containment provisions of 40 CFR ~~280.42(b)(1) through (4)~~ 280.42(a) through (d). The replacement UST system ~~may~~
16 shall not be located nearer to the water supply source than the UST system being replaced.

17 (d) Except as prohibited in Paragraph (b) of this Rule, an UST system ~~must~~ shall meet the requirements for secondary
18 containment described at 40 CFR ~~280.42(b)(1) through (4)~~ 280.42(a) through (d):

- 19 (1) Within 500 feet of a well serving a public water supply or within 100 feet of any other well supplying
20 water for human consumption; or
21 (2) Within 500 feet of any surface water classified as High Quality Water (HW), Outstanding Resource
22 water (ORW), WS-I, WS-II or SA.

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

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

28
29 *History Note: Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;*
30 *Eff. January 1, 1991;*
31 *Amended Eff. June 1, 2017; November 1, 2007*

1 15A NCAC 02N .0302 is amended with changes as published in 31:09 NCR 810-824 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 ~~provisions for regulations governing~~ "Upgrading of existing UST systems" ~~contained set forth in 40 CFR 280.21~~
6 **(Subpart B)** are hereby incorporated by ~~reference~~ reference, ~~including subsequent amendments and editions except that~~
7 that:

8 (1) existing UST systems located within the areas ~~defined at~~ described in Rule .0301(b) and (d) of this
9 Section shall be upgraded in accordance with the provisions of 40 CFR 280.21(b) through (d) and shall
10 be provided with secondary containment as described ~~at~~ in 40 CFR ~~280.42(b)(1) through (4)~~ 280.42(a)
11 through (d). An UST system ~~so~~ upgraded shall not be located nearer to a source of drinking water
12 supply than its location prior to being ~~upgraded~~ upgraded; and,

13 (2) 40 CFR 280.21 Note to paragraph b(1)(ii)(C) shall not be incorporated by reference.

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

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

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

24
25 *History Note: Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;*

26 *Eff. January 1, 1991;*

27 *Amended Eff. June 1, 2017; November 1, 2007.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0303

DEADLINE FOR RECEIPT: Friday, April 7, 2017

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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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 12, replace "is begun" with "begins"

Line 33, add a comma after "begins"

Page 2, line 27, is the comma after "attorney" necessary? Isn't the "power of attorney" related to the term "documentation"? Please review and clarify if necessary

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Thursday, March 23, 2017

1 15A NCAC 02N .0303 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The regulations governing "Notification requirements" ~~contained set forth~~ in 40 CFR 280.22 (Subpart B) have been adopted
5 are hereby incorporated by reference ~~reference, in accordance with G.S. 150B-14(e)~~ except that:

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

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

10 (b) ~~notice of Installation~~ installation of a leak detection device installed outside of the outermost
11 wall of the tank and piping, such as vapor detection or groundwater monitoring ~~devices; and~~
12 devices, shall be given at least 30 days before the activity is begun. The notice shall be provided
13 on form "UST-8 Notification of Activities Involving Underground Storage Tank Systems,"
14 which 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. 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 X
18 (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 product
21 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, and
25 riser pipes;

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

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

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

31 (x) leak detection equipment manufacturer and model;

32 (c) ~~notice of Permanent~~ permanent closure or change-in-service of an UST ~~system; system shall be~~
33 given at least 30 days before the activity begins unless a North Carolina Professional Engineer
34 or North 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 five
37 business days before the activity 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 person signing the form on behalf of another, 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.

~~(2) Notification as required in Paragraph (1) of this Rule shall be given at least 30 days before the activity is begun except as authorized by the Director.~~

~~(3)~~(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~~, unless notice was given pursuant to Section 103(c) of CERCLA. Owners or operators who have not complied with the notification requirements ~~may~~ shall complete the appropriate ~~the form,~~ provided by the Division, form “UST-8 Notification of Activities Involving Underground Storage Tank Systems” and submit the form to the Division.

1 ~~(4)~~(3) Beginning October 24, 1988, any person who sells a tank intended to be used as an ~~underground storage~~
2 ~~tank must~~ UST shall notify the purchaser of such tank of the ~~owners's~~ owner's notification obligations
3 under ~~Paragraphs~~ Item (1) ~~and (2)~~ of this Rule.

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

7
8 History Note: ~~Statutory~~ Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;
9 Eff. January 1, ~~1991~~ 1991;
10 Amended Eff. June 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0304

DEADLINE FOR RECEIPT: Friday, April 7, 2017

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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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 25 thru page 2, line 16; page 2, lines 28 and 29, lines 34 thru 36; and page 3, lines 4 thru 6, please consider beginning these lists with lowercase letters

Page 2, lines 29 thru 30, what is meant by "all applicable federal laws and regulations and state laws and rules"? Does that mean 40 CFR 280, Article 21A of G.S. 143B, and the rules in Subchapter? Please clarify.

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Thursday, March 23, 2017

1 15A NCAC 02N .0304 is amended as published in 31:09 NCR 810-824 as follows:

2
3 **15A NCAC 02N .0304 IMPLEMENTATION SCHEDULE FOR PERFORMANCE STANDARDS FOR NEW**
4 **UST SYSTEMS AND UPGRADING REQUIREMENTS FOR EXISTING UST SYSTEMS LOCATED IN AREAS**
5 **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 ~~defined~~ described in Rule .0301(d) of this Section. This implementation schedule shall ~~be used by the Department~~
8 ~~for govern~~ tank owners and operators ~~to comply~~ in complying with the secondary containment requirements ~~contained~~ set
9 forth in Rule .0301(d) for new UST systems and the secondary containment requirements ~~contained~~ set forth in Rule
10 .0302(a) for existing UST 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 of
16 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 containment
18 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~~ system, may
22 seek 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 of
24 April 1, 2001. The enhanced leak detection monitoring shall consist of the following:

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

reference including subsequent amendments and editions, and may be obtained at <http://www.standardmethods.org/> at a cost of sixty-nine dollars (\$69.00);

(B) EPA Method 625, Base/Neutrals and Acids, which is incorporated by ~~reference~~, reference including subsequent amendments and editions, and may be accessed free of charge at http://water.epa.gov/scitech/methods/cwa/organics/upload/2007_07_10_methods_method_organics_625.pdf ; and

(C) If a waste oil UST system is present that does not meet the requirements for secondary containment in accordance with 40 CFR 280.42(b)(1) through (4), the sample shall also be analyzed for lead and chromium using Method 6010C, Inductively Coupled Plasma-Atomic Emission Spectrometry, which is incorporated by reference including subsequent amendments and editions, and may be accessed free of charge at <http://www.epa.gov/epawaste/hazard/testmethods/sw846/pdfs/6010c.pdf> or Method 6020A, Inductively Coupled Plasma-Mass Spectrometry, which is incorporated by reference including subsequent amendments and editions, and may be accessed free of charge at <http://www.epa.gov/epawaste/hazard/testmethods/sw846/pdfs/6020a.pdf>; and

(6) The first sample collected in accordance with Subparagraph (b)(5) of this Rule shall be collected and the results received by the Division by October 1, ~~2000~~ 2000, and yearly thereafter.

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

(d) The Environmental Management Commission may grant a variance from the secondary containment ~~upgrade~~ requirements in Subparagraph (a)(5) of this Rule for USTs located within 100 to 500 feet of a public water supply ~~well~~, well if the well serves only a single facility and is not a community water system. Any request for a variance shall be in writing by the owner of the UST for which the variance is sought. The request for variance shall be submitted to the Director, Division of Waste Management, 1646 Mail Service Center, Raleigh, NC 27699-1646. The Environmental Management Commission shall grant the variance if the Environmental Management Commission finds facts to support the following conclusions:

- (1) The variance will not endanger human health and welfare or groundwater; and
- (2) UST systems are operated and maintained in compliance with all applicable federal laws and regulations and state laws and rules.

(e) The Environmental Management Commission may require the variance applicant to submit such information as the Environmental Management Commission deems necessary to make a decision to grant or deny the variance. Information that may be requested includes the following:

- (1) Water supply well location, depth, construction specifications, and sampling results;
- (2) Groundwater depth and flow direction; and
- (3) Leak detection monitoring and testing results.

1 (f) The Environmental Management Commission may impose such conditions on a variance as the Environmental
2 Management Commission deems necessary to protect human health and welfare and groundwater. Conditions for a
3 variance may include the following:

- 4 (1) Increased frequency of leak detection and leak prevention monitoring and testing;
- 5 (2) Periodic water supply well sampling; and
- 6 (3) Increased reporting and recordkeeping.

7 (g) The findings of fact supporting any variance under this Rule shall be in writing and made part of the variance.

8 (h) The Environmental Management Commission may rescind a variance that was previously granted if the
9 Environmental Management Commission discovers through inspection or reporting that the conditions of the variance are
10 not met or that the facts no longer support the conclusions in Subparagraphs (d)(1) and (2) of this Rule.

11 (i) An owner of a ~~an~~ UST system who is aggrieved by a decision of the Environmental Management Commission to
12 deny or rescind a ~~variance~~, variance or to conditionally grant a variance may commence a contested case by filing a
13 petition ~~under~~ pursuant to G.S. 150B-23 within 60 days after receipt of the decision.

14
15 *History Note:* Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h);
16 Temporary Adoption Eff. May 1, 2000;
17 Eff. April 1, 2001;
18 Amended Eff. June 1, 2017; June 1, 2015; November 1, 2007.

1 15A NCAC 02N .0401 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The ~~provisions for regulations governing~~ “Spill and overfill control” ~~contained set forth~~ in 40 CFR 280.30 (Subpart C)
5 ~~have been adopted~~ are hereby incorporated by reference. ~~reference in accordance with G.S. 150B-14(e).~~

6
7 *History Note:* ~~Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h)~~ 143B-282(a)(2)(h); 150B-14(e) 150B-21.6;
8 Eff. January 1, 1991.
9 Amended Eff. June 1, 2017.

1 15A NCAC 02N .0402 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The provisions for regulations governing “Operation and maintenance of corrosion protection” ~~contained set forth~~ in 40
5 CFR 280.31 **(Subpart C)** ~~have been adopted~~ are hereby incorporated by reference. ~~reference in accordance with G.S.~~
6 ~~150B-14(e).~~

7
8 *History Note:* ~~Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h); 143B-282(a)(2)(h); 150B-14(e) 150B-21.6;~~
9 ~~Eff. January 1, 1991. 1991;~~
10 Amended Eff. June 1, 2017.

1 15A NCAC 02N .0403 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The ~~provisions for regulations governing~~ “Compatibility” ~~contained set forth~~ in 40 CFR 280.32 (Subpart C) have
5 ~~been adopted~~ are hereby incorporated by reference. ~~reference in accordance with G.S. 150B-14(e).~~

6
7 *History Note: ~~Statutory~~ Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~*

8 *150B-21.6;*

9 *Eff. January 1, ~~1991~~. 1991;*

10 *Amended Eff. June 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0404

DEADLINE FOR RECEIPT: Friday, April 7, 2017

PLEASE NOTE: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 15, replace "and/or" with "and" or "or"

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

1 15A NCAC 02N .0404 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The regulations governing “Repairs Allowed” provisions contained set forth in 40 CFR 280.33 (Subpart C) have been
5 adopted by reference in accordance with G.S. 150B-14(e) are hereby incorporated by reference, except that the first
6 sentence of 40 CFR 280.33(d) shall be read: “Repairs to secondary containment areas of tanks and piping used for
7 interstitial monitoring and to containment sumps used for interstitial monitoring of piping shall have the secondary
8 containment tested for tightness as directed by the Division within 30 days following the date of completion of the
9 repair.” When determining 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 rate
12 with a probability of detection (Pd) of at least 95 percent and a probability of false alarm (Pfa) of no
13 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/or testing after repairs are conducted; and
16 (5) test methods developed by an independent laboratory.

17
18 *History Note: ~~Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h) 143B-282(a)(2)(h); 150B-14(e) 150B-21.6;~~*
19 *~~Eff. January 1, 1991. 1991;~~*
20 *~~Amended Eff. June 1, 2017.~~*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0405

DEADLINE FOR RECEIPT: Friday, April 7, 2017

PLEASE NOTE: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Page 2, line 36, there is no comma after "evaluation" and on page 3, line 33, there is a comma after "evaluation" Please be consistent with punctuation in like phrases

Page 4, lines 8 thru 10 is similar to page 3, lines 7 thru 9, but on page 4, the phrase "instant off" is before "voltage." Is that distinction correct? Please review and correct if necessary. Also, if the phrase "instant off" remains, it appears to be a phrase that should be hyphenated if it is referring to or describing the term "voltage." Please review.

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Thursday, March 23, 2017

1 15A NCAC 02N .0405 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 (a) The regulations governing "Reporting and recordkeeping" procedures contained set forth in 40 CFR 280.34

5 (Subpart C) have been adopted are hereby incorporated by reference, ~~reference in accordance with G.S. 150B-14(e).~~

6 (b) Owners and operators ~~must also~~ shall submit to the Division, ~~on forms provided by the Division and~~ within 30 days
7 following completion, results of the site investigation conducted:

8 (1) ~~at permanent closure; closure or change-in-service. The results of the site investigation for permanent~~
9 ~~closure 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 of~~
17 ~~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 water~~
19 ~~supplies, presence and location of water supply wells and surface water, depth to and nature~~
20 ~~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 change-~~
23 ~~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, type~~
28 ~~and source of backfill used, and any groundwater, free product, or bedrock encountered in the~~
29 ~~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 analysis;~~

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

34 ~~(P) field screening results and analytical results for samples collected, comparison of analytical~~
35 ~~results to standards set forth in 15A NCAC 02L, and the presence and quantity of any free~~
36 ~~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 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 ~~must~~ shall submit to the Division, on forms provided by the ~~Division,~~ 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 ~~280.24;~~ 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 ~~and at a frequency and in a manner specified 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 Engineers 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 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 Engineers 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 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~~ 280.43, and 40 CFR 280.44. The certification ~~must~~ 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.

History Note: ~~Statutory~~ Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6; Eff. January 1, ~~1991~~, 1991; Amended Eff. June 1, 2017.

1 15A NCAC 02N .0406 is adopted with changes as published in 31:09 NCR 810-824 as follows:

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

6 The regulations governing "Periodic testing of spill prevention equipment and containment sumps used for interstitial
7 monitoring of piping and periodic inspection of overfill prevention equipment" set forth in 40 CFR 280.35 (Subpart C)
8 are hereby incorporated by reference, except that UST system or UST system component installations or replacements
9 completed on or after November 1, 2007, shall meet the 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. June 1, 2017.*

1 15A NCAC 02N .0407 is adopted with changes as published in 31:09 NCR 810-824 as follows:

2
3 **15A NCAC 02N .0407 PERIODIC OPERATION AND MAINTENANCE WALKTHROUGH INSPECTIONS**

4 The regulations governing "Periodic operation and maintenance walkthrough inspections" set forth in 40 CFR 280.36
5 (Subpart C) are hereby incorporated by reference.

6
7 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); 150B-21.6;*
8 *Eff. June 1, 2017.*

1 15A NCAC 02N .0501 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The regulations governing "General requirements for all UST systems" ~~provisions contained set forth~~ in 40 CFR 280.40
5 (Subpart D) have been adopted are hereby incorporated by reference reference in accordance with G.S. 150B-14(e).

6
7 *History Note: Statutory Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;*
8 *Eff. January 1, ~~1991~~ 1991;*
9 *Amended Eff. June 1, 2017.*

1 15A NCAC 02N .0502 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

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

11
12 History Note: *Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;*
13 *Eff. January 1, 1991;*
14 *Amended Eff. June 1, 2017; November 1, 2007.*

1 15A NCAC 02N .0503 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The regulations governing "Requirements for hazardous substance UST systems" ~~provisions contained set forth~~ in 40
5 CFR 280.42 **(Subpart D)** are hereby incorporated by ~~reference~~ reference, ~~including subsequent amendments and editions~~
6 except that hazardous substance UST systems or UST system components installed or replacements completed on or after
7 November 1, ~~2007~~ 2007, ~~must~~ 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(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;
10 Eff. January 1, 1991;
11 Amended Eff. June 1, 2017; November 1, 2007.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0504

DEADLINE FOR RECEIPT: Friday, April 7, 2017

PLEASE NOTE: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 15 and 17, underline "for" as they were underlined in the 31:09 Register

Line 26, delete "a" before "clean"

Line 31, track the change to "water-tight" as this is a change to existing language in the Administrative Code

Line 33, and page 2, line 10, define or delete "continuously" Or is the use of this term related to the phrase "continuous in-tank leak detection" as used in 40 CFR 280.43(d)(3)(ii)? Please review.

Page 2, line 10, delete "the" before "~~presence~~"

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Thursday, March 23, 2017

1 15A NCAC 02N .0504 is amended with changes as published in 31:09 NCR 810-824 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" ~~contained set forth~~ in 40 CFR 280.43 (Subpart D)
5 ~~have been adopted~~ are hereby incorporated by reference ~~reference, in accordance with G.S. 150B-14(e) except that:~~ that

6 (1) ~~40 CFR 280.43 (d)(2) is amended to read: "Inventory control, or another test of equivalent performance~~
7 ~~approved by the Department, conducted in accordance with the requirements of 40 CFR 280.43(a)";~~

8 (2) ~~40 CFR 280.43(f)(7) is amended to read: "Within and immediately below the UST system excavation~~
9 ~~zone, the site is assessed to ensure compliance with the requirements of 40 CFR 280.43(f)(1) through~~
10 ~~(f)(5), as modified by this Rule, and to establish the number and positioning of monitoring wells or~~
11 ~~devices that will detect releases from any portion of the tank that routinely contains products"; and~~

12 (3) ~~40 CFR 280.43(f)(3), (f)(4), and (f)(5) are~~ shall not be adopted by reference.

13 (b) Wells used for monitoring or testing for ~~liquids on~~ free product in the groundwater shall be:

14 (1) Located as follows:

15 (A) ~~For~~ For new installations, ~~located~~ within and at the end of the excavation having the
16 lowest elevation and along piping at intervals not exceeding 50 feet; or

17 (2) (B) ~~For~~ For existing installations, ~~located~~ in the excavation zone or as near to it as
18 technically feasible and installed in a borehole at least four inches larger than the
19 diameter of the casing;

20 (3) (2) A minimum of two inches in diameter. The number of wells installed ~~must~~ shall be sufficient to detect
21 releases from the UST system;

22 (4) (3) Equipped with a screen that extends from two feet below land surface to a depth of 20 feet below land
23 surface or two feet below the seasonal low water level, whichever is shallower. The screen shall be
24 designed and installed to prevent the migration of natural soils or filter pack into the well while allowing
25 the entry of regulated substances into the well under both high and low groundwater level conditions;

26 (5) (4) Surrounded with a clean sand or gravel to the ~~the~~ top of the screen, plugged and grouted the remaining
27 distance to finished grade with cement grout;

28 (6) (5) Constructed of a permanent casing and screen material that is inert to the stored substance and is
29 corrosion resistant;

30 (7) (6) Developed upon completion of installation until the water is clear and ~~relatively~~ sediment free;

31 (8) (7) Protected with a water-tight cover and lockable cap;

32 (9) (8) Labeled as a liquid monitor well; and

33 (10) (9) Equipped with a continuously operating liquid leak detection device; or

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

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

1 (c) Wells used for monitoring or testing for ~~liquids on free product in~~ the groundwater at new ~~installations;~~ installations and
2 constructed in accordance with Paragraph (b) of this ~~Rule;~~ Rule shall be deemed to be permitted in accordance with the
3 requirements of 15A NCAC 2C .0105.

4 (d) Any person completing or abandoning any ~~well;~~ well used for testing of vapors or monitoring for ~~liquids on free product~~
5 in the groundwater; groundwater shall submit the record required by Rule 15A NCAC 2C .0114(b). .0114(b) of the Well
6 Construction Standards (15A NCAC 2C .0100).

7 ~~(e) The site assessments required by 40 CFR 280.43(e)(6) and 40 CFR 280.43(f)(7) shall be conducted by or under the~~
8 ~~supervision of a person qualified to assess site conditions.~~

9 ~~(f)(e)~~ Wells used for monitoring for the presence of vapors in the soil gas of the excavation zone shall be equipped with a
10 continuously operating vapor detection device or tested at least once every 14 days for the ~~presence~~ vapors of the substance
11 stored.

12
13 *History Note: ~~Statutory~~ Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;*
14 *Eff. January 1, ~~1991~~. 1991;*
15 *Amended Eff. June 1, 2017.*

1 15A NCAC 02N .0505 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The regulations governing "Methods of release detection for piping" ~~provisions contained set forth~~ in 40 CFR 280.44
5 **(Subpart D)** ~~have been adopted~~ are hereby incorporated by reference. ~~reference in accordance with G.S. 150B-14(e).~~

6
7 *History Note: ~~Statutory~~ Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;*
8 *Eff. January 1, ~~1991~~ 1991;*
9 *Amended Eff. June 1, 2017.*

1 15A NCAC 02N .0506 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The provisions for regulations governing "Release detection recordkeeping" contained set forth in 40 CFR 280.45 (Subpart
5 **D**) have been adopted are hereby incorporated by reference, reference in accordance with G.S. 150B-14(e).

6
7 *History Note: Statutory Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;*
8 *Eff. January 1, ~~1991~~ 1991;*
9 *Amended Eff. June 1, 2017.*

1 15A NCAC 02N .0601 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The ~~provisions for regulations governing~~ "Reporting of suspected releases" ~~contained set forth~~ in 40 CFR 280.50 (Subpart
5 ~~E) have been adopted~~ are hereby incorporated by reference reference, in accordance with G.S. 150B-14(e), except that the
6 ~~words, words~~ "or another reasonable ~~time~~ period specified by the implementing agency," ~~are shall be~~ deleted from the first
7 sentence.

8
9 *History Note: ~~Statutory~~ Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;*
10 *Eff. January 1, ~~1991~~ 1991;*
11 *Amended Eff. June 1, 2017.*

1 15A NCAC 02N .0602 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The regulations governing "Investigation due to off-site impacts" provisions contained set forth in 40 CFR 280.51 (Subpart
5 E) ~~have been adopted~~ are hereby incorporated by reference. ~~reference in accordance with G.S. 150B-14(e).~~

6
7 *History Note: Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;*
8 *Eff. January 1, ~~1991~~ 1991;*
9 *Amended Eff. June 1, 2017.*

1 15A NCAC 02N .0603 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The regulations governing "Release investigation and confirmation steps" provisions contained set forth in 40 CFR 280.52
5 (Subpart E) have been adopted are hereby incorporated by reference reference, in accordance with G.S. 150B-14(e), except
6 that in 40 CFR 280.52 the words "or another reasonable time period specified by the implementing agency" shall not be
7 adopted by reference. the first sentence shall read: "Unless corrective action is initiated in accordance with Subpart F,
8 owners must immediately investigate and confirm all suspected releases of regulated substances requiring reporting under 40
9 CFR 280.50 within seven days, unless approval for an extension of time has been granted by the Division before the seven
10 days have expired, and only upon a showing of good cause by the owner or operator of the UST system. In conducting such
11 investigations, owners and operators must use either the following steps or another procedure approved by the Division."
12 Upon written request, the Division may grant additional time to investigate and confirm suspected releases as specified in 40
13 CFR 280.53. The request shall be made to the Division prior to the expiration of the required time period. When considering
14 such a request, the Division may consider factors as follows:

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

21
22 *History Note: ~~Statutory~~ Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;*
23 *Eff. January 1, ~~1991~~ 1991;*
24 *Amended Eff. June 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0604

DEADLINE FOR RECEIPT: Friday, April 7, 2017

PLEASE NOTE: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 7, the language in 40 CFR 280.53(a) and (b) differs:

(a) Owners and operators of UST systems must contain and immediately clean up a spill or overfill and report to the implementing agency within 24 hours, **or another reasonable time period specified by the implementing agency**, and begin corrective action in accordance with subpart F of this part in the following cases:

...

(b) Owners and operators of UST systems must contain and immediately clean up a spill or overfill of petroleum that is less than 25 gallons or another reasonable amount specified by the implementing agency, and a spill or overfill of a hazardous substance that is less than the reportable quantity. If cleanup cannot be accomplished within 24 hours, **or another reasonable time period established by the implementing agency**, owners and operators must immediately notify the implementing agency.

In (b), the term is not "specified" but "established" Please update this Rule to correct that distinction

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Thursday, March 23, 2017

1 15A NCAC 02N .0604 is amended with changes as published in 31:09 NCR 810-824 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" provisions contained set forth in 40 CFR 280.53
5 (Subpart E) have been adopted are hereby incorporated by reference reference, in accordance with G.S. 150B-14(e), except
6 that:

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

25
26 *History Note:* ~~Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h)~~ 143B-282(a)(2)(h); 150B-14(e) 150B-21.6;
27 Eff. January 1, 1991, 1991;
28 Amended Eff. June 1, 2017.

1 15A NCAC 02N .0701 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 (a) The regulations governing "General" provisions contained set forth in 40 CFR 280.60 (Subpart F) ~~have been adopted~~
5 are hereby incorporated by reference reference, in accordance with G.S. 150B-14(e).

6 (b) Any corrective action undertaken in accordance with this Section ~~must~~ shall meet the requirements and standards
7 specified in 15A NCAC 2L.

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

10 *Eff. January 1, 1991.*

11 *Amended Eff. September 1, 1992.*

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

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

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0702

DEADLINE FOR RECEIPT: Friday, April 7, 2017

PLEASE NOTE: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 6, to properly track the CFR, add "within" between "or another"

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Thursday, March 23, 2017

1 15A NCAC 02N .0702 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The ~~provisions for regulations governing~~ "Initial response" ~~contained set forth~~ in 40 CFR 280.61 (Subpart F) ~~have been~~
5 ~~adopted~~ are hereby incorporated by reference ~~reference, in accordance with G.S. 150B-14(e) except that the words, words~~
6 "or another reasonable ~~time~~ period of time ~~specified~~ determined by the implementing ~~agency,~~ agency" in the first sentence
7 ~~are shall not be~~ adopted by reference.

8
9 *History Note:* ~~Statutory~~ Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;
10 Eff. January 1, 1991.
11 Amended Eff. June 1, 2017.

1 15A NCAC 02N .0703 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

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

6 (1) 40 CFR 280.62(a)(6) ~~is rewritten to shall~~ read, "Investigate to determine the possible presence of free
7 ~~product, product and begin free product removal within 14 days in accordance with 40 CFR 280.64,~~
8 280.64." ~~unless approval for an extension of time has been granted by the Division upon a showing of~~
9 ~~good cause, prior to the expiration of the time period~~ Upon written request, the Division may grant
10 additional time to begin free product removal. The request shall be made to the Division prior to the
11 expiration of the required time period. When considering such a request, the Division may consider
12 factors as follows:

13 (a) the extent to which the request for additional time is due to factors outside of the
14 control of the tank owner or operator;

15 (b) the previous history of the tank owner or operator submitting the report in
16 complying with deadlines established under the Commission's rules;

17 (c) the technical complications associated with free product removal; and

18 (d) the necessity for action to eliminate an imminent threat to public health or the
19 environment; and

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

22
23 *History Note:* ~~Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h)~~ 143B-282(a)(2)(h); 150B-14(e) 150B-21.6;
24 Eff. January 1, 1991; 1991;
25 Amended Eff. June 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0704

DEADLINE FOR RECEIPT: Friday, April 7, 2017

PLEASE NOTE: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 9, add "40 CFR" before "280.63(a)"

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

1 15A NCAC 02N .0704 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The ~~provisions for regulations governing~~ "Initial site characterization" ~~contained set forth~~ in 40 CFR 280.63 (Subpart F)
5 ~~have been adopted~~ are hereby incorporated by reference reference, in accordance with G.S. 150B-14(e), except that in 40
6 CFR 280.63(b) the ~~words, words~~ "or another reasonable period of time determined by the implementing agency," agency
7 ~~are replaced by the words, "unless prior approval has been granted by the Division upon a showing of good cause, before the~~
8 ~~45 days have expired."~~ shall not be adopted by reference. Upon written request, the Division may grant additional time to
9 submit the information collected in compliance with 280.63(a). The request shall be made to the Division prior to the
10 expiration of the required time period. When considering such a request, the Division may consider factors as follows:

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

17
18 *History Note:* ~~Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h)~~ 143B-282(a)(2)(h); 150B-14(e) 150B-21.6;
19 Eff. January 1, 1991, 1991;
20 Amended Eff. June 1, 2017.

1 15A NCAC 02N .0705 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The ~~provisions for regulations governing~~ "Free product removal" ~~contained set forth~~ in 40 CFR 280.64 (Subpart F) have
5 ~~been adopted~~ are hereby incorporated by reference. ~~reference in accordance with G.S. 150B-14(e).~~

6
7 *History Note: Statutory Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;*
8 *Eff. January 1, ~~1991~~ 1991;*
9 *Amended Eff. June 1, 2017.*

1 15A NCAC 02N .0706 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The ~~provisions for regulations governing~~ "Investigations for soil and groundwater cleanup" ~~contained set forth~~ in 40 CFR
5 280.65 (Subpart F) ~~have been adopted~~ are hereby incorporated by reference. ~~reference in accordance with G.S. 150B-14(e).~~

6
7 *History Note:* ~~Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h)~~ 143B-282(a)(2)(h); 150B-14(e) 150B-21.6;
8 Eff. January 1, 1991; 1991;
9 Amended Eff. June 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0707

DEADLINE FOR RECEIPT: Friday, April 7, 2017

PLEASE NOTE: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 13, add the quotation mark after "2L" as it was published in the 31:09 Register

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Thursday, March 23, 2017

1 15A NCAC 02N .0707 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The provisions for a regulations governing "Corrective action plan" ~~contained set forth~~ in 40 CFR 280.66 (Subpart F) have
5 been ~~are hereby~~ incorporated by ~~reference reference~~, including any subsequent amendments and editions with the exception
6 of the following Paragraph. ~~except that~~ This material is available for inspection at the Department of Environment and
7 Natural Resources, Division of Water Quality, Groundwater Section, 2728 Capital Boulevard, Raleigh, North Carolina.
8 Copies of 40 CFR Parts 260 to 299 may be obtained from the Superintendent of Documents, Government Printing Office,
9 Washington, D.C., 20402 at a cost of thirty one dollars (\$31.00). 40 CFR 280.66(a) has been rewritten to shall read: "At any
10 point after "After reviewing the information submitted in compliance with 40 CFR 280.61 through 40 CFR 280.63, the
11 Division may require owners and operators to submit additional information or to develop and submit a corrective action
12 plan for responding to contaminated soils and groundwater. If a plan is required, owners and operators must prepare a plan in
13 accordance with the requirements specified in 15A NCAC ~~2L, 2L~~, and submit it according to a schedule and format
14 established by the Division. Owners and operators are responsible for submitting a plan that provides for adequate protection
15 of human health and the environment as determined by the Division, and must modify their plan as necessary to meet this
16 standard".

17
18 *History Note:* ~~Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h)~~ 143B-282(a)(2)(h);
19 *Eff. January 1, 1991;*
20 *Amended Eff. September 1, 1992.*
21 *Temporary Amendment Eff. January 2, 1998;*
22 *Amended Eff. June 1, 2017; October 29, 1998.*

1 15A NCAC 02N .0708 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The ~~provisions for regulations governing~~ "Public participation" ~~contained set forth~~ in 40 CFR 280.67 (Subpart F) have been
5 ~~adopted~~ are hereby incorporated by reference. ~~reference in accordance with G.S. 150B-14(e).~~

6
7 *History Note:* ~~Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h)~~ 143B-282(a)(2)(h); 150B-14(e) 150B-21.6;
8 Eff. January 1, 1991; 1991;
9 Amended Eff. June 1, 2017.

1 15A NCAC 02N .0801 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The ~~provisions for regulations governing~~ "Temporary closure" ~~contained set forth~~ in 40 CFR 280.70 (Subpart G) have been
5 ~~adopted~~ are hereby incorporated by reference. ~~reference in accordance with G.S. 150B-14(e).~~

6
7 *History Note:* ~~Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h)~~ 143B-282(a)(2)(h); 150B-14(e) 150B-21.6;
8 Eff. January 1, 1991; 1991;
9 Amended Eff. June 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0802

DEADLINE FOR RECEIPT: Friday, April 7, 2017

PLEASE NOTE: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 5 does not correctly reflect the current language in the Administrative Code, which is the following:

The provisions for "Permanent closure and changes-in-service" contained in 40 CFR 280.71 (Subpart G) have been adopted by reference **in accordance with G.S. 150B-14(c)** except that an UST system containing de minimis concentrations of a regulated substance must meet the closure requirements of this Rule within 12 months of the effective date of this Subchapter.

The filed rule has "including subsequent amendments and editions" as struck through text, but it should be the highlighted text above that is being deleted from the Administrative Code. Please revise accordingly.

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Thursday, March 23, 2017

1 15A NCAC 02N .0802 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

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

8
9 *History Note:* ~~Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h)~~ 143B-282(a)(2)(h); 150B-14(e) 150B-21.6;
10 Eff. January 1, 1991.
11 Amended Eff. June 1, 2017.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .0803

DEADLINE FOR RECEIPT: Friday, April 7, 2017

PLEASE NOTE: This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 9 and 10, please track the Item numbering changes as published in the 31:09 Register

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

1 15A NCAC 02N .0803 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The provisions for regulations governing "Assessing the site at closure or change-in-service" ~~contained set forth in 40 CFR~~
5 280.72 (Subpart G) ~~have been adopted~~ are hereby incorporated by reference reference, ~~in accordance with G.S.~~
6 ~~150B-14(e)~~, except that:

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

23
24 *History Note:* ~~Statutory Authority G.S. 143-215.3(a)(15); 143B-282(2)(h)~~ 143B-282(a)(2)(h); 150B-14(e) 150B-21.6;
25 Eff. January 1, 1991; 1991;
26 Amended Eff. June 1, 2017.

1 15A NCAC 02N .0804 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The regulations governing "Applicability to previously closed UST systems" ~~provisions contained~~ set forth in 40 CFR
5 280.73 **(Subpart G)** ~~have been adopted~~ are hereby incorporated by reference. ~~reference in accordance with G.S. 150B-14(e).~~

6
7 *History Note: Statutory Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;*
8 *Eff. January 1, ~~1991~~ 1991;*
9 *Amended Eff. June 1, 2017.*

1 15A NCAC 02N .0805 is amended with changes as published in 31:09 NCR 810-824 as follows:

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

4 The regulations governing "Closure records" ~~provisions contained set forth~~ in 40 CFR 280.74 (Subpart G) ~~have been~~
5 ~~adopted~~ are hereby incorporated by reference. ~~reference in accordance with G.S. 150B-14(e).~~

6
7 *History Note: Statutory Authority G.S. 143-215.3(a)(15); ~~143B-282(2)(h)~~ 143B-282(a)(2)(h); ~~150B-14(e)~~ 150B-21.6;*
8 *Eff. January 1, ~~1991~~ 1991;*
9 *Amended Eff. June 1, 2017.*

1 15A NCAC 02N .1001 is adopted with changes as published in 31:09 NCR 810-824 as follows:

2
3 **SECTION .1000 – UST SYSTEMS WITH FIELD-CONSTRUCTED TANKS AND AIRPORT HYDRANT**
4 **FUEL DISTRIBUTION SYSTEMS**

5
6 **15A NCAC 02N .1001 DEFINITIONS**

7 The regulations governing "UST systems with field-constructed tanks and airport hydrant fuel distribution systems" set forth
8 in 40 CFR 280.250 (Subpart K) are hereby incorporated by reference.

9
10 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); 150B-21.6;*
11 *Eff. June 1, 2017.*

1 15A NCAC 02N .1002 is adopted with changes as published in 31:09 NCR 810-824 as follows:

2
3 **15A NCAC 02N .1002 GENERAL REQUIREMENTS**

4 The regulations governing "General Requirements" set forth in 40 CFR 280.251 (Subpart K) are hereby incorporated by
5 reference.

6
7 *History Note: Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); 150B-21.6;*
8 *Eff. June 1, 2017.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02N .1003

DEADLINE FOR RECEIPT: Friday, April 7, 2017

PLEASE NOTE: *This request when viewed on computer extends 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 this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Lines 7 and 8, please consider beginning this list with lowercase letters

Line 8, consider replacing "meet" with "comply with" to be consistent with line 10

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Thursday, March 23, 2017

1 15A NCAC 02N .1003 is adopted with changes as published in 31:09 NCR 810-824 as follows:

2
3 **15A NCAC 02N .1003 ADDITIONS, EXCEPTIONS, AND ALTERNATIVES FOR UST SYSTEMS WITH**
4 **FIELD-CONSTRUCTED TANKS AND AIRPORT HYDRANT SYSTEMS**

5 The regulations governing "Additions, exceptions, and alternatives for UST systems with field-constructed tanks and airport
6 hydrant systems" set forth in 40 CFR 280.252 (Subpart K) are hereby incorporated by reference, except that:

- 7 (1) Piping associated with UST systems with field-constructed tanks less than or equal to 50,000 gallons not
8 part of an airport hydrant fueling system shall meet the requirements of Section .0900 of this Subchapter;
9 and
10 (2) UST systems with field-constructed tanks and airport hydrant systems shall comply with the spill and
11 overfill prevention requirements of Section .0900 of this Subchapter.

12
13 *History Note:* Authority G.S. 143-215.3(a)(15); 143B-282(a)(2)(h); 150B-21.6;
14 *Eff. June 1, 2017.*

1 15A NCAC 02O .0309-.0310 are repealed as published in 31:09 NCR 810-824 as follows:

2
3 **15A NCAC 02O .0309 SUBSTITUTION OF FINANCIAL ASSURANCE MECHANISMS**

4 **15A NCAC 02O .0310 CANCELLATION OR NONRENEWAL BY A PROVIDER OF ASSURANCE**

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

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

8 *Repealed Eff. June 1, 2017.*

1 15A NCAC 02O .0311 is adopted with changes as published in 31:09 NCR 810-824 as follows:

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

4 The regulations governing "Local Government Bond Rating Test" set forth in 40 CFR 280.104 (Subpart H) are hereby
5 incorporated by reference.

6
7 *History Note: Authority G.S. 143-215.94H; 150B-21.6;*
8 *Eff. June 1, 2017.*

1 15A NCAC 02O .0312 is adopted with changes as published in 31:09 NCR 810-824 as follows:

2
3 **15A NCAC 02O .0312 LOCAL GOVERNMENT FINANCIAL TEST**

4 The regulations governing "Local Government Financial Test" set forth in 40 CFR 280.105 (Subpart H) are hereby
5 incorporated by reference.

6
7 *History Note: Authority G.S. 143-215.94H; 150B-21.6;*
8 *Eff. June 1, 2017.*

1 15A NCAC 02O .0313 is adopted with changes as published in 31:09 NCR 810-824 as follows:

2
3 **15A NCAC 02O .0313 LOCAL GOVERNMENT GUARANTEE**

4 The regulations governing "Local Government Guarantee" set forth in 40 CFR 280.106 (Subpart H) are hereby
5 incorporated by reference.

6
7 *History Note: Authority G.S. 143-215.94H; 150B-21.6;*
8 *Eff. June 1, 2017.*

1 15A NCAC 02O .0314 is adopted with changes as published in 31:09 NCR 810-824 as follows:

2
3 **15A NCAC 02O .0314 LOCAL GOVERNMENT FUND**

4 The regulations governing "Local Government Fund" set forth in 40 CFR 280.107 (Subpart H) are hereby incorporated
5 by reference.

6
7 *History Note: Authority G.S. 143-215.94H; 150B-21.6;*
8 *Eff. June 1, 2017.*

1 15A NCAC 02O.0315 is adopted with changes as published in 31:09 NCR 810-824 as follows:

2
3 **15A NCAC 02O .0315 SUBSTITUTION OF FINANCIAL ASSURANCE MECHANISMS**

4 The regulations governing "Substitution of Financial Assurance Mechanisms by Owners or Operators" set forth in 40
5 CFR 280.108 (Subpart H) are hereby incorporated by reference.

6
7 *History Note: Authority G.S. 143-215.94H; 150B-21.6;*
8 *Eff. June 1, 2017.*

1 15A NCAC 02O .0316 is adopted with changes as published in 31:09 NCR 810-824 as follows:

2
3 **15A NCAC 02O .0316 CANCELLATION OR ~~NONRENEWABLE~~ RENEWAL BY A PROVIDER OF**
4 **ASSURANCE**

5 The regulations governing "Cancellation or Non-renewal by a Provider of Financial Assurance " set forth in 40 CFR
6 280.109 (Subpart H) are hereby incorporated by reference.

7
8 *History Note: Authority G.S. 143-215.94H; 150B-21.6;*
9 *Eff. June 1, 2017.*