

1 15A NCAC 02L .0501 is proposed for reoption without substantive changes as follows:

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

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

6 (1) protect human health and the environment;

7 (2) abate and control contamination of the waters of the State as deemed necessary to protect human  
8 health and the environment;

9 (3) permit management of the State's groundwaters to protect their designated current usage and  
10 potential future uses;

11 (4) provide for anticipated future uses of the State's groundwater;

12 (5) recognize the diversity of contaminants, the State's geology, and the characteristics of each  
13 individual site; and

14 (6) accomplish these goals in a cost-efficient manner to assure the best use of the limited resources  
15 available to address groundwater pollution within the State.

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

18

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

1 15A NCAC 02L .0502 is proposed for readoption with substantive changes as follows:

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

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

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

28  
29 *History Note:* Authority G.S. 143-212(4); 143-215.3(a)(1); 143-215.77; 143B-282; 143-215.84; 143-215.104AA;  
30 ~~Eff. March 1, 2016.~~ Eff. March 1, 2016;  
31 Readopted Eff. XX 1, 20XX.

1 15A NCAC 02L .0503 is proposed for reoption without substantive changes as follows:

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

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

11

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

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

14 *Readopted Eff. XX 1, 20XX.*

1 15A NCAC 02L .0504 is proposed for readoption without substantive changes as follows:

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

5 A responsible party shall:

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

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

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

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

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

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

32  
 33 *History Note:* Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA;  
 34 Eff. March 1, 2016.– Eff. March 1, 2016;  
 35 Readopted Eff. XX 1, 20XX.

1 15A NCAC 02L .0505 is proposed for readoption without substantive changes as follows:

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

4 If the required showing cannot be made by the responsible party under Rule .0504 of this Section, the responsible  
5 party shall submit within 120 days of the discovery of the discharge or release, a report as required in Rule .0504 of  
6 this Section, containing information needed by the Department to classify the level of risk to human health and the  
7 environment posed by a discharge or release under Rule .0506 of this Section. The responsible party may request an  
8 extension prior to the deadline that demonstrates ~~to the Department~~ that the extension would not increase the risk  
9 posed by the release. When considering a request from a responsible party for additional time to submit the report,  
10 the Department shall consider the following:

- 11 (a) the extent to which the request for additional time is due to factors outside of the control  
12 of the responsible party;  
13 (b) the previous history of the person submitting the report in complying with deadlines  
14 established under the Commission's rules;  
15 (c) the technical complications associated with assessing the extent of contamination at the  
16 site or identifying potential receptors; and  
17 (d) the necessity for action to eliminate an imminent threat to public health or the environment.

18 Such report shall include the following:

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

- 1 (4) a determination of whether vapors from the discharge or release pose a threat of explosion due to  
2 the accumulation of vapors in a confined space; pose a risk to public health from exposure; or pose  
3 any other ~~serious~~ threat to public health, public safety, or the environment;
- 4 (5) scaled site ~~map(s)~~ maps showing the location of the following that are on or adjacent to the property  
5 where the source is located:
- 6 (a) site boundaries;
  - 7 (b) roads;
  - 8 (c) buildings;
  - 9 (d) basements;
  - 10 (e) floor and storm drains;
  - 11 (f) subsurface utilities;
  - 12 (g) septic tanks and leach fields;
  - 13 (h) underground and aboveground storage tank systems;
  - 14 (i) monitoring wells;
  - 15 (j) water supply wells;
  - 16 (k) surface water bodies and other drainage features;
  - 17 (l) borings; and
  - 18 (k) the sampling points;
- 19 (6) the results from a limited site assessment that shall include the following actions:
- 20 (a) determine the presence, the lateral and vertical extent, and the maximum concentration  
21 levels of soil and, if possible, groundwater contamination and free product accumulations;
  - 22 (b) install monitoring wells constructed in accordance with 15A NCAC 02C ~~.0108~~, .0108  
23 within the area of maximum soil or groundwater contamination to determine the  
24 groundwater flow direction and maximum concentrations of dissolved groundwater  
25 contaminants or accumulations of free product. During well construction, the responsible  
26 party shall collect and analyze soil samples that represent the suspected highest  
27 contaminant-level locations by exhibiting visible contamination or elevated levels of  
28 volatile organic ~~compounds~~, compounds from successive locations at five-foot depth  
29 intervals in the boreholes of each monitoring well within the unsaturated zone; collect  
30 potentiometric data from each monitoring well; and collect and analyze groundwater or  
31 measure the amount of free product, if present, in each monitoring well;
- 32 (7) the availability of public water supplies and the identification of properties served by the public  
33 water supplies within 1500 feet of the source area of a confirmed discharge or release;
- 34 (8) the land use, including zoning if applicable, within 1500 feet of the source area of a confirmed  
35 discharge or release;

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

17  
18 *History Note:* Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA.  
19 Eff. March 1, 2016. Eff. March 1, 2016;  
20 Readopted Eff. XX 1, 20XX.

1 15A NCAC 02L .0506 is proposed for readoption without substantive changes as follows:

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

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

6 (1) "High risk" means that:

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

21 (2) "Intermediate risk" means that:

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

1 (e) the levels of groundwater contamination for ethylene dibromide and benzene exceed 1,000  
2 times the federal drinking water standard as referenced in 15A NCAC 18C ~~.1518~~  
3 ~~hereby .1518~~, incorporated by reference including subsequent amendments and editions  
4 and is available free of charge at [http://reports.oah.state.nc.us/ncac/title 15a -](http://reports.oah.state.nc.us/ncac/title_15a_-_environmental_quality/chapter_18_-_environmental_health/subchapter_c/15a_ncac_18c)  
5 [environmental quality/chapter 18 - environmental health/subchapter c/15a ncac 18c](http://reports.oah.state.nc.us/ncac/title_15a_-_environmental_quality/chapter_18_-_environmental_health/subchapter_c/15a_ncac_18c)  
6 [.1518.pdf](http://reports.oah.state.nc.us/ncac/title_15a_-_environmental_quality/chapter_18_-_environmental_health/subchapter_c/15a_ncac_18c).

7 (3) "Low risk" means that:

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

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

14  
15 *History Note:* Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA;  
16 ~~Eff. March 1, 2016.~~ Eff. March 1, 2016;  
17 Readopted Eff. XX 1, 20XX.

1 15A NCAC 02L .0507 is proposed for reoption without substantive changes as follows:

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

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

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

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

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

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

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

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

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

- 24 (1) completed soil remediation pursuant to 15A NCAC 02LRule .0408 of this Section except as  
 25 provided in 15A NCAC 02LRule .0416 of this Section or as closely thereto as economically or  
 26 technologically feasible;
- 27 (2) submitted proof of public notification, if required;
- 28 (3) recorded all required land-use restrictions; and
- 29 (4) paid any applicable statutorily authorized fees.

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

32  
 33 *History Note:* Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA;  
 34 Eff. March 1, 2016;  
 35 Amended Eff. March 1, 2017. Amended Eff. March 1, 2017;  
 36 Readopted Eff. XX 1, 20XX.

1 15A NCAC 02L .0508 is proposed for readoption without substantive changes as follows:

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

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

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

27  
28 *History Note: Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA;*  
29 *Eff. March 1, 2016. Eff. March 1, 2016;*  
30 *Readopted Eff. XX 1, 20XX.*

1 15A NCAC 02L .0509 is proposed for reoption without substantive changes as follows:

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

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

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

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

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

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

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

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

1 15A NCAC 02L .0510 is proposed for readoption without substantive changes as follows:

2

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

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

6

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

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

9 *Readopted Eff. XX 1, 20XX.*

1 15A NCAC 02L .0511 is proposed for readoption without substantive changes as follows:

2

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

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

6

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

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

9 *Readopted Eff. XX 1, 20XX.*

1 15A NCAC 02L .0512 is proposed for readoption without substantive changes as follows:

2

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

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

6

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

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

9 *Readopted Eff. XX 1, 20XX.*

1 15A NCAC 02L .0513 is proposed for readoption without substantive changes as follows:

2

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

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

6

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

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

9 *Readopted Eff. XX 1, 20XX.*

1 15A NCAC 02L .0514 is proposed for readoption without substantive changes as follows:

2

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

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

7

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

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

10 *Readopted Eff. XX 1, 20XX.*

1 15A NCAC 02L .0515 is proposed for reoption without substantive changes as follows:

2

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

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

7

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

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

10 *Readopted Eff. XX 1, 20XX.*