REGULATORY IMPACT ANALYSIS

15A NCAC 02S Rules and Criteria for the Administration of the Dry-Cleaning Solvent Cleanup Fund

February 23, 2026

Rule Topic: Readoption and Amendments to Existing Rules and Criteria for the Administration of the Dry-Cleaning Solvent Cleanup Fund

Rule Citation: 15A NCAC 02S Rules .0101 - .0509

Commission: Environmental Management Commission

DEQ Division: Division of Waste Management

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Impact Summary:
State Government: None
Local Government: None
Private Entities: None
Environment: None
Substantial Economic Impact: None

Authority: N.C.G.S. 143-215.104D

1. Necessity for Rule Amendments

The rules in 15A NCAC 02S are proposed for readoption in accordance with G.S. 150B-21.3A. G.S. 150B-21.3A requires state agencies to review existing rules every 10 years. The existing rules are required to be readopted by the Environmental Management Commission (EMC) by the deadline established by the Rules Review Commission of August 1, 2027. Amendments are also proposed concurrently with readoption to make technical corrections, make updates for clarification and consistency with current practice and similar requirements in other EMC rules, and repeal unnecessary rules that have never been utilized for the program.

2. Purpose of Rules

The 1997 Dry-Cleaning Solvent Cleanup Act (DSCA) and its amendments established the Dry-Cleaning Solvent Cleanup Fund (Fund) to clean up historical contamination, protect public health, and prevent future solvent releases at dry-cleaning and wholesale distribution sites. The regulatory requirements for administering the Fund are codified in Title 15A, Subchapter 02S. The rules establish criteria for determining eligibility for certification of sites petitioning to enter the DSCA Program, create minimum management practices for the storage and handling of dry-cleaning solvents, implement a risk-based corrective action approach to assess and remediate contamination at certified facilities, and provide guidelines for disbursing funds. The DSCA Program within the Department of Environmental Quality (DEQ), Division of Waste Management (DWM) administers a compliance inspection and enforcement program, ensuring that active dry-cleaning facilities and wholesale distribution facilities comply with applicable regulations and prevent future dry-cleaning solvent contamination. The DSCA program is wholly funded by receipts from taxes on dry-cleaning sales and dry-cleaning solvent purchases.

3. Regulatory Baseline

To understand what the costs and benefits of the proposed rule changes would be to affected parties, it is necessary to identify a regulatory baseline for comparison. For the purpose of this analysis, the baseline is comprised of the following:

- Existing N.C. Administrative Code (NCAC)
  - 15A NCAC 02S Rules and Criteria for the Administration of the Dry-Cleaning Solvent Cleanup Fund
  - 15A NCAC 02B Surface Water and Wetland Standards
  - 15A NCAC 02C Well Construction Standards
  - 15A NCAC 02L Groundwater Classification and Standards

- Existing N.C. General Statutes (NCGS)
  - G.S. 143-215.104A – 143-215.104U Dry-Cleaning Solvent Cleanup Act of 1997
    (Part 6 of Article 21A of Chapter 143 of the General Statutes)
  - G.S. 105-164.44E Transfer to the Dry-Cleaning Solvent Cleanup Fund
  - G.S. 105-164.4 Tax Imposed on Retailers and Certain Facilitators (Sales Tax)
  - G.S. 105-187.31 Tax Imposed (Solvent Tax)

- Existing Code of Federal Regulations (CFR)
  - 40 CFR 63 Subpart M - National Perchloroethylene Air Emission Standards for Dry-Cleaning Facilities
  - 40 CFR 60 Subpart JJJ - Standards of Performance for Petroleum Dry-Cleaners
  - 40 CFR 260-262 - Hazardous Waste Management

4. Summary of Proposed Rule Amendments and Impacts

A summary of the proposed amendments, the reasons for the amendments, and the expected impacts are found in the table below. In accordance with G.S. 150B-21.3A(d)(2), if a rule is readopted without substantive change or if the rule is amended to impose a less stringent burden on regulated persons, the agency is not required to prepare a fiscal note. Also, in accordance with G.S. 150B-21.4(d), if an agency proposes the repeal of an existing rule, the agency is not required to prepare a fiscal note.

Rule[1]	Proposed Change	Description/Explanation	Impacts
15A NCAC 02S .0101 - .0103, .0201, .0301, .0501 - .0505, and .0508	Readoption either with no changes or with minor technical corrections only.	The removal of the definition for "remedial action plan" from Rule .0102 and the revisions to Rules .0505 and .0509 to remove this plan name are due to the fact that the rule for this plan is proposed for repeal (see additional explanation for the repeal of Rule .0507 below), and therefore the name of this plan should no longer be used in Subchapter 02S.	None
15A NCAC 02S .0202 Required Minimum Management Practices	Readoption with minor amendments.	*Subparagraph (b)(2):* The proposed amendment would reduce the required volumetric capacity for spill containment from 110 percent to 100 percent. The regulated community requested this change, and lowering the spill containment capacity requirement will not have an economic impact on the regulated community. The stakeholders originally suggested putting 110% in the rule when it was originally promulgated, but no longer recall why, except possibly to show they were willing to go above and beyond the minimum capacity necessary for spill containment. The readily available spill containment pans have spill containment of 100%, not 110%. Requiring the larger, more expensive pans would unnecessarily cause an economic burden to the regulated community when the readily available pans provide 100% spill containment. Changing the requirement to 100% will not cause any additional releases, and this is adequate to contain any materials within the containment pans. This subparagraph is also proposed for amendment to make a technical correction to use the correct term "absorbent" instead of "adsorbent."	None

[1] 15A NCAC 02S .0401 is not included in this table because it was repealed on September 1, 2007.

Rule[1]	Proposed Change	Description/Explanation	Impacts
15A NCAC 02S .0302 Other Potentially Responsible Parties	Repeal through readoption.	This rule has not been necessary or utilized since its original adoption. *Paragraph (a):* The responsible party is voluntarily entering the program, and only one responsible party is needed to file a petition; therefore, it is not necessary for the Division to notify other potentially responsible parties that a petition has been filed. If it were necessary for some reason, nothing prevents the Division from being able to provide that notification. *Paragraph (b):* The Division has no need to request voluntary information from other responsible parties that have not petitioned for certification, because the responsible party voluntarily filing the petition is required to provide all relevant or necessary information for approval. Entities wishing entry into the DSCA program are eager to cooperate and if the petitioner does not provide the information, DSCA can refuse to accept their petition into the program on that basis (see G.S. 143-215.104F or 104H for information required to be submitted and reasons for refusal of petition).	None
15A NCAC 02S .0506 Tiered Risk Assessment	Readoption with minor amendments for consistency.	*Subparagraph (f)(3):* the proposed amendment revises text for clarity and consistency to match the same language used in EMC Rule 15A NCAC 02L .0202(e) regarding references used for groundwater classification and standards, because the same references are used in practice for the purposes described in this rule. The amendment does not alter how toxicity is currently determined or calculated in practice under the existing rule.	None
15A NCAC 02S .0507 Remedial Action Plan	Repeal through readoption.	This rule has not been necessary or utilized since its original adoption. When the rule was originally adopted, the DSCA program was the first to have risk-based rules, and implementation was still underway. As risk-based rules were implemented, it became apparent that remedial action plans were not required or needed since all sites would be closed with land-use restrictions and a risk management plan that would cover all things required in this rule. Essentially, the risk management plan that is now required covers necessary elements of the remedial action plan. The risk management plan is an attachment to the Amendment to the Agreement for Assessment and Remediation (AARA) which includes the planned remedial action at the site developed in accordance with G.S 143-215.104I.	None
15A NCAC 02S .0509 No Further Action Criteria	Readoption with minor amendments for clarification	Rewording and updating terminology for clarity. Making a technical correction to update the rule reference, since Rule .0507 is proposed for repeal.	None

5. Conclusion

The amendments to 15A NCAC 02S Rules and Criteria for the Administration of the Dry-Cleaning Solvent Cleanup Fund proposed concurrently with readoption of the rules are mainly technical and grammatical, or are meant to make the rules consistent with current practice for the DSCA Program, or to make the wording for similar requirements consistent with other EMC rules. These changes are not expected to have any regulatory or environmental impacts on federal, State, or local governments, nor will they increase the burden on the regulated entities.

The two rules that are proposed for repeal have never been implemented or necessary since promulgation of the rules. The existing rules were originally written before the risk-based program was implemented and upon implementation and over time, it was discovered that these rules were not necessary and do not support the work and current practice of the DSCA program.

The amendments were proposed after multiple discussions between DSCA Program staff and the regulated community and stakeholder group comprised of dry-cleaning business owners, attorneys, banks and lenders, environmental consultants, and environmental groups.

In accordance with G.S. 150B-21.3A(d)(2), if a rule is readopted without substantive change or if the rule is amended to impose a less stringent burden on regulated persons, the agency is not required to prepare a fiscal note. Also, in accordance with G.S. 150B-21.4(d), if an agency proposes the repeal of an existing rule, the agency is not required to prepare a fiscal note.