

## SUBCHAPTER 2L - GROUNDWATER CLASSIFICATION AND STANDARDS

### SECTION .0100 - GENERAL CONSIDERATIONS

#### 15A NCAC 02L .0101 AUTHORIZATION

(a) N.C. General Statute 143-214.1 directs that the Commission develop and adopt after proper study a series of classifications and standards which will be appropriate for the purpose of classifying each of the waters of the state in such a way as to promote the policy and purposes of the act. Pursuant to this statute, the rules in this Subchapter establish a series of classifications and water quality standards applicable to the groundwaters of the state.

(b) These rules are applicable to all activities or actions, intentional or accidental, which contribute to the degradation of groundwater quality, regardless of any permit issued by a governmental agency authorizing such action or activity except an innocent landowner who is a bona fide purchaser of property which contains a source of groundwater contamination, who purchased such property without knowledge or a reasonable basis for knowing that groundwater contamination had occurred, or a person whose interest or ownership in the property is based or derived from a security interest in the property, shall not be considered a responsible party.

*History Note: Authority G.S. 143-214.1; 143-214.2; 143-215.3(a)(1); 143B-282;  
Eff. June 10, 1979;  
Amended Eff. August 1, 1989; July 1, 1988; September 1, 1984; December 30, 1983.*

#### 15A NCAC 02L .0102 DEFINITIONS

The definition of any word or phrase used in these Rules shall be the same as given in G.S. 143-212 and G.S. 143-213 except that the following words and phrases shall have the following meanings:

- (1) "Bedrock" means any consolidated rock encountered in the place in which it was formed or deposited and which cannot be readily excavated without the use of explosives or power equipment.
- (2) "Commission" means the Environmental Management Commission as organized under G.S. 143B.
- (3) "Compliance boundary" means a boundary around a disposal system at and beyond which groundwater quality standards may not be exceeded and only applies to facilities which have received a permit issued under the authority of G.S. 143-215.1 or G.S. 130A.
- (4) "Contaminant" means any substance occurring in groundwater in concentrations which exceed the groundwater quality standards specified in Rule .0202 of this Subchapter.
- (5) "Corrective action plan" means a plan for eliminating sources of groundwater contamination or for achieving groundwater quality restoration or both.
- (6) "Director" means Director of the Division of Environmental Management.
- (7) "Division" means the Division of Environmental Management.
- (8) "Exposure pathway" means a course taken by a contaminant by way of a transport medium after its release to the environment.
- (9) "Free product" means a non-aqueous phase liquid which may be present within the saturated zone or in surface water.
- (10) "Fresh groundwaters" means those groundwaters having a chloride concentration equal to or less than 250 milligrams per liter.
- (11) "Groundwaters" means those waters occurring in the subsurface under saturated conditions.
- (12) "Hazardous substance" means any substance as defined by Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).
- (13) "Licensed geologist" means a person who has been duly licensed as a geologist in accordance with the requirements of G.S. 89E.
- (14) "Natural remediation" means those natural processes acting to restore groundwater quality, including dilution, filtration, sorption, ion-exchange, chemical transformation and biodegradation.
- (15) "Practical Quantitation Limit" means the lowest concentration of a given material that can be reliably achieved among laboratories within specified limits of precision and accuracy by a given analytical method during routine laboratory analysis.
- (16) "Natural conditions" means the physical, biological, chemical and radiological conditions which occur naturally.
- (17) "Potable waters" means those waters suitable for drinking by humans.
- (18) "Professional Engineer" means a person who has been duly registered and licensed as a professional engineer in accordance with the requirements of G.S. 89C.

- (19) "Receptor" means any human, plant, animal, or structure which is, or has the potential to be, adversely effected by the release or migration of contaminants. Any well constructed for the purpose of monitoring groundwater and contaminant concentrations shall not be considered a receptor.
- (20) "Review boundary" means a boundary around a permitted disposal facility, midway between a waste boundary and a compliance boundary at which groundwater monitoring is required.
- (21) "Saline groundwaters" means those groundwaters having a chloride concentration of more than 250 mg/l.
- (22) "Saturated zone" means that part of the subsurface below the water table in which all the interconnected voids are filled with water under pressure at or greater than atmospheric. It does not include the capillary fringe.
- (23) "Standards" means groundwater quality standards as specified in Rule .0202 of this Subchapter.
- (24) "Suitable for drinking" means a quality of water which does not contain substances in concentrations which, either singularly or in combination if ingested into the human body, may cause death, disease, behavioral abnormalities, congenital defects, genetic mutations, or result in an incremental lifetime cancer risk in excess of  $1 \times 10^{-6}$ , or render the water unacceptable due to aesthetic qualities, including taste, odor or appearance.
- (25) "Time of travel" means the time required for contaminants in groundwater to move a unit distance.
- (26) "Waste boundary" means the perimeter of the permitted waste disposal area.
- (27) "Water table" means the surface of the saturated zone below which all interconnected voids are filled with water and at which the pressure is atmospheric.

*History Note: Authority G.S. 143-214.1; 143-215; 143B-282; Eff. June 10, 1979. Amended Eff. October 1, 1993; August 1, 1989; July 1, 1988; March 1, 1985.*

### **15A NCAC 02L .0103 POLICY**

(a) The rules established in this Subchapter are intended to maintain and preserve the quality of the groundwaters, prevent and abate pollution and contamination of the waters of the state, protect public health, and permit management of the groundwaters for their best usage by the citizens of North Carolina. It is the policy of the Commission that the best usage of the groundwaters of the state is as a source of drinking water. These groundwaters generally are a potable source of drinking water without the necessity of significant treatment. It is the intent of these Rules to protect the overall high quality of North Carolina's groundwaters to the level established by the standards and to enhance and restore the quality of degraded groundwaters where feasible and necessary to protect human health and the environment, or to ensure their suitability as a future source of drinking water.

(b) It is the intention of the Commission to protect all groundwaters to a level of quality at least as high as that required under the standards established in Rule .0202 of this Subchapter. In keeping with the policy of the Commission to protect, maintain, and enhance groundwater quality within the State of North Carolina, the Commission will not approve any disposal system subject to the provisions of G.S. 143-215.1 which would result in:

- (1) the significant degradation of groundwaters which have existing quality that is better than the assigned standard, unless such degradation is found to be in the best interests of the citizens of North Carolina based upon the projected economic benefits of the facility and a determination that public health will be protected, or
- (2) a violation of a groundwater quality standard beyond a designated compliance boundary, or
- (3) the impairment of existing groundwater uses or increased risk to the health or safety of the public due to the operation of a waste disposal system.

(c) Violations of standards resulting from groundwater withdrawals which are in compliance with water use permits issued pursuant to G.S. 143-215.15, shall not be subject to the corrective action requirements of Rule .0106 of this Subchapter.

(d) No person shall conduct or cause to be conducted, any activity which causes the concentration of any substance to exceed that specified in Rule .0202 of this Subchapter, except as authorized by the rules of this Subchapter.

(e) Work that is within the scope of the practice of geology and engineering, performed pursuant to the requirements of this Subchapter, which involves site assessment, the interpretation of subsurface geologic conditions, preparation of conceptual corrective action plans or any work requiring detailed technical knowledge of site conditions which is submitted to the Director, shall be performed by persons, firms or professional corporations who are duly licensed to offer geological or engineering services by the appropriate occupational licensing board or are exempted from such licensing by G.S. 89E-6.

Work which involves design of remedial systems or specialized construction techniques shall be performed by persons, firms or professional corporations who are duly licensed to offer engineering services. Corporations that are authorized by law to perform engineering or geological services and are exempt from the Professional Corporation Act, G.S. 55B, may perform these services.

*History Note: Authority G.S. 143-214; 143-214.1; 143-214.2; 143-215.3(e); 143-215.3(a)(1); 143B-282; Eff. June 10, 1979; Amended Eff. August 1, 1989; July 1, 1988; September 1, 1984; December 30, 1983; RRC Objection Eff. September 17, 1993, due to lack of necessity for Paragraph (e); Amended Eff. November 4, 1993.*

#### **15A NCAC 02L .0104 RESTRICTED DESIGNATION (RS)**

(a) The RS designation serves as a warning that groundwater so designated may not be suitable for use as a drinking water supply without treatment. The designation is temporary and will be removed by the Director upon a determination that the quality of the groundwater so designated has been restored to the level of the applicable standards or when the groundwaters have been reclassified by the Commission. The Director is authorized to designate GA or GSA groundwaters as RS under any of the following circumstances:

- (1) Where, as a result of man's activities, groundwaters have been contaminated and the Director has approved a corrective action plan, or termination of corrective action, that will not result in the immediate restoration of such groundwaters to the standards established under this Subchapter.
- (2) Where a statutory variance has been granted as provided in Rule .0113 of this Subchapter.

(b) Groundwaters occurring within an area defined by a compliance boundary in a waste disposal permit are deemed to be designated RS.

(c) The boundary of a designated RS area may be approximated in the absence of analytical data sufficient to define the dimension of the area. The boundary shall be located at least 250 feet away from the predicted edge of the contaminant plume, and shall include any areas into which the contamination is expected to migrate.

(d) In areas designated RS, the person responsible for groundwater contamination shall establish and implement a groundwater monitoring system sufficient to detect changes in groundwater quality within the RS designated area. Monitoring shall be quarterly for the first year and may be reduced to semi-annually thereafter until the applicable standards have been achieved. If during the monitoring period, contaminant concentrations increase, additional remedial action or monitoring pursuant to these Rules may be required.

(e) The applicant for an RS designation shall also provide written verification that all property owners within and adjacent to the proposed RS area have been notified of the requested RS designation.

(f) The Division shall provide public notice of the intent to designate any groundwater RS in accordance with the following requirements:

- (1) Notice shall be published at least 30 days prior to any proposed final action in accordance with G.S. 143-215.4. In addition, notice shall be provided to all property owners identified pursuant to Paragraph (e) of this Rule and to the local County Health Director and the chief administrative officer of the political jurisdiction(s) in which the contamination occurs.
- (2) The notice shall contain the following information:
  - (A) name, address, and phone number of the agency issuing the public notice;
  - (B) the location and extent of the designated area;
  - (C) the county title number, county tax identification number, or the property tax book and page identifiers;
  - (D) a brief description of the action or actions which resulted in the degradation of groundwater in the area;
  - (E) actions or intended actions taken to restore groundwater quality;
  - (F) the significance of the RS designation;
  - (G) conditions applicable to removal of the RS designation;
  - (H) address and phone number of a Division contact from whom interested parties may obtain further information.

- (3) The Director shall consider all requests for a public hearing, and if he determines that there is significant public interest he shall issue public notice and hold a public hearing in accordance with G.S 143-215.4(b) and Rule .0113(e) of this Section.
- (4) These requirements shall not apply to groundwaters defined in Paragraph (b) of this Rule.

*History Note:* Authority G.S. 143-214.1; 143-215.3(a)(1); 143B-282(2);  
Eff. June 10, 1979;  
Amended Eff. October 1, 1993; December 1, 1989; August 1, 1989; December 30, 1983.

#### **15A NCAC 02L .0105 ADOPTION BY REFERENCE**

*History Note:* Authority G.S. 143-214.1;  
Eff. December 30, 1983;  
Repealed Eff. August 1, 1989.

#### **15A NCAC 02L .0106 CORRECTIVE ACTION**

(a) Where groundwater quality has been degraded, the goal of any required corrective action shall be restoration to the level of the standards, or as closely thereto as is economically and technologically feasible as determined by the Department in accordance with this Rule. In all cases involving requests to the Secretary, as defined in 15A NCAC 02C .0102, for approval of corrective action plans, or termination of corrective action, the responsibility for providing all information required by this Rule lies with the person(s) making the request.

(b) Any person conducting or controlling an activity that results in the discharge of a waste or hazardous substance or oil to the groundwaters of the State, or in proximity thereto, shall take action upon discovery to terminate and control the discharge, mitigate any hazards resulting from exposure to the pollutants and notify the Department, as defined in 15A NCAC 02C .0102, of the discharge.

(c) Any person conducting or controlling an activity that has not been permitted by the Department and that results in an increase in the concentration of a substance in excess of the standard, other than agricultural operations, shall:

- (1) within 24 hours of discovery of the violation, notify the Department of the activity that has resulted in the increase and the contaminant concentration levels;
- (2) respond in accordance with Paragraph (f) of this Rule;
- (3) submit a report to the Secretary assessing the cause, significance, and extent of the violation; and
- (4) implement an approved corrective action plan for restoration of groundwater quality in accordance with a schedule established by the Secretary. In establishing a schedule, the Secretary shall consider a schedule proposed by the person submitting the plan. A report shall be made to the Health Director of the county or counties in which the contamination occurs in accordance with the requirements of Rule .0114(a) in this Section.

Any activity not permitted pursuant to G.S. 143-215.1 or G.S. 130A-294 shall, for the purpose of this Rule, be deemed not permitted by the Department and subject to the provisions of this Paragraph.

(d) Any person conducting or controlling an activity that is conducted under the authority of a permit initially issued by the Department on or after December 30, 1983 pursuant to G.S. 143-215.1 or G.S. 130A-294 and that results in an increase in concentration of a substance in excess of the standards:

- (1) at or beyond a review boundary: the person shall demonstrate, through predictive calculations or modeling, that natural site conditions, facility design and operational controls will prevent a violation of standards at the compliance boundary. Alternately, the person may submit a plan for alteration of existing site conditions, facility design, or operational controls that will prevent a violation at the compliance boundary, and implement that plan upon its approval by the Secretary.
- (2) at or beyond a compliance boundary: the person shall respond in accordance with Paragraph (f) of this Rule, assess the cause, significance and extent of the violation of standards and submit the results of the investigation, and a plan and proposed schedule for corrective action to the Secretary. The permittee shall implement the plan as approved by and in accordance with a schedule established by the Secretary. In

establishing a schedule the Secretary shall consider any schedule proposed by the permittee, the scope of the project, the extent of contamination, and the corrective action being proposed.

(e) Any person conducting or controlling an activity that is conducted under the authority of a permit initially issued by the Department prior to December 30, 1983 pursuant to G.S. 143-215.1 or G.S. 130A-294, and that results in an increase in concentration of a substance in excess of the standards at or beyond the compliance boundary specified in the permit, shall:

- (1) within 24 hours of discovery of the violation, notify the Department of the activity that has resulted in the increase and the contaminant concentration levels;
- (2) respond in accordance with Paragraph (f) of this Rule;
- (3) submit a report to the Secretary assessing the cause, significance and extent of the violation; and
- (4) implement an approved corrective action plan for restoration of groundwater quality at or beyond the compliance boundary, in accordance with a schedule established by the Secretary. In establishing a schedule the Secretary shall consider any schedule proposed by the person submitting the plan. A report shall be made to the Health Director of the county or counties where the contamination occurs in accordance with the requirements of Rule .0114(a) in this Section.

(f) Initial response required to be conducted prior to or concurrent with the assessment required in Paragraphs (c), (d), or (e) of this Rule shall include:

- (1) Prevention of fire, explosion, or the spread of noxious fumes;
- (2) Abatement, containment, or control of the migration of contaminants;
- (3) Removal, treatment, or control of any primary pollution source such as buried waste, waste stockpiles, or surficial accumulations of free products;
- (4) Removal, treatment, or control of secondary pollution sources that would be potential continuing sources of pollutants to the groundwaters, such as contaminated soils and non-aqueous phase liquids. Contaminated soils that threaten the quality of groundwaters shall be treated, contained, or disposed of in accordance with rules in this Chapter and in 15A NCAC 13 applicable to such activities. The treatment or disposal of contaminated soils shall be conducted in a manner that will not result in a violation of standards or North Carolina Hazardous Waste Management rules.

(g) The site assessment conducted pursuant to the requirements of Paragraphs (c), (d), or (e) of this Rule, shall include:

- (1) The source and cause of contamination;
- (2) Any imminent hazards to public health and safety, as defined in G.S. 130A-2, and any actions taken to mitigate them in accordance with Paragraph (f) of this Rule;
- (3) All receptors and significant exposure pathways;
- (4) The horizontal and vertical extent of soil and groundwater contamination and all significant factors affecting contaminant transport; and
- (5) Geological and hydrogeological features influencing the movement, chemical, and physical character of the contaminants.

Reports of site assessments shall be submitted to the Department as soon as practicable or in accordance with a schedule established by the Secretary. In establishing a schedule the Secretary shall consider a proposal by the person submitting the report.

(h) Corrective action plans for restoration of groundwater quality, submitted pursuant to Paragraphs (c), (d), and (e) of this Rule shall include:

- (1) A description of the proposed corrective action and reasons for its selection;
- (2) Specific plans, including engineering details where applicable, for restoring groundwater quality;
- (3) A schedule for the implementation and operation of the proposed plan; and
- (4) A monitoring plan for evaluating the effectiveness of the proposed corrective action and the movement of the contaminant plume.

(i) In the evaluation of corrective action plans, the Secretary shall consider the extent of any violations, the extent of any threat to human health or safety, the extent of damage or potential adverse impact to the environment, technology available to accomplish restoration, the potential for degradation of the contaminants in the environment, the time and costs estimated to achieve groundwater quality restoration, and the public and economic benefits to be derived from groundwater quality restoration.

(j) A corrective action plan prepared pursuant to Paragraphs (c), (d), or (e) of this Rule shall be implemented using a remedial technology demonstrated to provide the most effective means, taking into consideration geological and hydrogeological conditions at the contaminated site, for restoration of groundwater quality to the level of the standards. Corrective action plans prepared pursuant to Paragraphs (c) or (e) of this Rule may request an exception as provided in Paragraphs (k), (l), (m), (r), and (s) of this Rule.

(k) Any person required to implement an approved corrective action plan for a site subject to Paragraphs (c) or (e) of this Rule may request that the Secretary approve such a plan without requiring groundwater remediation to the standards. A request submitted to the Secretary under this Paragraph shall include a description of site-specific conditions, including information on the availability of public water supplies for the affected area; the technical basis for the request; and any other information requested by the Secretary to evaluate the request in accordance with Subparagraphs (1) through (7) of this Paragraph. The person making the request shall demonstrate:

- (1) that all sources of contamination and free product have been removed or controlled pursuant to Paragraph (f) of this Rule;
- (2) that the time and direction of contaminant travel can be predicted with reasonable certainty;
- (3) that contaminants have not and will not migrate onto adjacent properties, or that:
  - (A) such properties are served by an existing public water supply system dependent on surface waters or hydraulically isolated groundwater; or
  - (B) the owners of such properties have consented in writing to the request;
- (4) that the standards specified in Rule .0202 of this Subchapter will be met at a location no closer than one year time of travel upgradient of an existing or foreseeable receptor, based on travel time and the natural attenuation capacity of subsurface materials or on a physical barrier to groundwater migration that exists or will be installed by the person making the request;
- (5) that, if the contaminant plume is expected to intercept surface waters, the groundwater discharge will not possess contaminant concentrations that would result in violations of standards for surface waters contained in 15A NCAC 02B .0200;
- (6) that public notice of the request has been provided in accordance with Rule .0114(b) of this Section; and
- (7) that the proposed corrective action plan would be consistent with all other environmental laws.

(l) Any person required to implement an approved corrective action plan for a site subject to Paragraphs (c) or (e) of this Rule may request that the Secretary approve such a plan based upon natural processes of degradation and attenuation of contaminants. A request submitted to the Secretary under this Paragraph shall include a description of site-specific conditions, including written documentation of projected groundwater use in the contaminated area based on current state or local government planning efforts; the technical basis for the request; and any other information requested by the Secretary to evaluate the request in accordance with Subparagraphs (1) through (10) of this Paragraph. The person making the request shall demonstrate:

- (1) that all sources of contamination and free product have been removed or controlled pursuant to Paragraph (f) of this Rule;
- (2) that the contaminant has the capacity to degrade or attenuate under the site-specific conditions;
- (3) that the time and direction of contaminant travel can be predicted based on subsurface conditions and the contaminant's physical and chemical properties;
- (4) that contaminant migration will not result in any violation of applicable groundwater standards at any existing or foreseeable receptor;
- (5) that contaminants have not and will not migrate onto adjacent properties, or that:
  - (A) such properties are served by an existing public water supply system dependent on surface waters or hydraulically isolated groundwater; or
  - (B) the owners of such properties have consented in writing to the request;
- (6) that, if the contaminant plume is expected to intercept surface waters, the groundwater discharge will not possess contaminant concentrations that would result in violations of standards for surface waters contained in 15A NCAC 02B .0200;
- (7) that the person making the request will put in place a groundwater monitoring program that, based on subsurface conditions and the physical and chemical properties of the contaminant, will accurately track the degradation and attenuation of contaminants and contaminant by-products within and down gradient of the plume and to detect contaminants and contaminant by-products prior to their reaching any existing or foreseeable receptor at least one year's time of travel upgradient of the receptor and no greater than the distance the groundwater at the contaminated site is predicted to travel in five years;
- (8) that all necessary access agreements needed to monitor groundwater quality pursuant to Subparagraph (7) of this Paragraph have been or can be obtained;
- (9) that public notice of the request has been provided in accordance with Rule .0114(b) of this Section; and
- (10) that the proposed corrective action plan would be consistent with all other environmental laws.

(m) The Department or any person required to implement an approved corrective action plan for a site subject to Paragraphs (c) or (e) of this Rule may request that the Secretary approve termination of corrective action.

- (1) A request submitted to the Secretary under this Paragraph shall include:
    - (A) a discussion of the duration of the corrective action, the total project cost, projected annual cost for continuance and evaluation of the success of the corrective action;
    - (B) an evaluation of alternate treatment technologies that could result in further reduction of contaminant levels, projected capital, and annual operating costs for each technology; and
    - (C) the effects, including health and safety impacts, on groundwater users if contaminant levels remain at levels existing at the time corrective action is terminated.
  - (2) In addition, the person making the request shall demonstrate:
    - (A) that continuation of corrective action would not result in a significant reduction in the concentration of contaminants. This demonstration shall show the duration and degree of success of existing remedial efforts to attain standards. For the purpose of this Part, a "significant reduction" is demonstrated by showing that the asymptotic slope of the contaminants curve of decontamination is less than a ratio of 1:40 over a term of one year based on quarterly sampling;
    - (B) that contaminants have not and will not migrate onto adjacent properties, or that:
      - (i) such properties are served by an existing public water supply system dependent on surface waters or hydraulically isolated groundwater; or
      - (ii) the owners of such properties have consented in writing to the request;
    - (C) that, if the contaminant plumes are expected to intercept surface waters, the groundwater discharge will not possess contaminant concentrations that would result in violations of standards for surface waters contained in 15A NCAC 02B .0200;
    - (D) that public notice of the request has been provided in accordance with Rule .0114(b) of this Section; and
    - (E) that the proposed termination would be consistent with all other environmental laws.
  - (3) The Secretary shall not authorize termination of corrective action for any area that, at the time the request is made, has been identified by a state or local groundwater use planning process for resource development.
  - (4) The Secretary may authorize the termination of corrective action, or amend the corrective action plan after considering all the information in the request. In making the authorization, the Secretary shall consider health and safety impacts on all existing and foreseeable receptors and the impacts the contaminated plume may have if it reaches them. Upon termination of corrective action, the Secretary shall require implementation of a groundwater monitoring program that, based on subsurface conditions and the physical and chemical properties of the contaminants, will accurately track the degradation and attenuation of contaminants at a location of no less than one year's predicted time of travel upgradient of any existing or foreseeable receptor. The monitoring program shall remain in effect until there is sufficient evidence that the contaminant concentrations have been reduced to the level of the standards. For the purpose of this Part, "sufficient evidence" means that sampling and analyses demonstrate that contaminant concentrations have been reduced to the level of the standards on multiple sampling events.
- (n) Upon a determination by the Secretary that continued corrective action would result in no significant reduction in contaminant concentrations, and the contaminated groundwaters can be rendered potable by treatment using technologies that are in use in other applications and shown to be effective for removal of contaminants, the Secretary may designate the remaining area of degraded groundwater RS. Where the remaining degraded groundwaters cannot be made potable by such treatment, the Secretary may consider a request for reclassification of the groundwater to a GC classification as outlined in Rule .0201 of this Subchapter.
- (o) If at any time the Secretary determines that a new technology is available that would remediate the contaminated groundwater to the standards specified in Rule .0202 of this Subchapter, the Secretary may require the responsible party to evaluate the economic and technological feasibility of implementing the new technology in an active groundwater corrective action plan in accordance with a schedule established by the Secretary. The Secretary's determination to utilize new technology at any site or for any particular constituent shall include a consideration of the factors in Paragraph (h) of this Rule.
- (p) Where standards are exceeded as a result of the application of pesticides or other agricultural chemicals, the Secretary shall request the Pesticide Board or the Department of Agriculture and Consumer Services to assist the Department in determining the cause of the violation. If the violation is determined to have resulted from the use of pesticides, the Secretary shall request the Pesticide Board to take appropriate regulatory action to control the use of the chemical or chemicals responsible for, or contributing to, such violations, or to discontinue their use.

(q) The approval pursuant to this Rule of any corrective action plan, or modification or termination thereof, that permits the migration of a contaminant onto adjacent property, shall not affect any private right of action by any party that may be affected by that contamination.

(r) If a discharge or release is not governed by the rules in Section .0400 of this Subchapter and the increase in the concentration of a substance in excess of the standard resulted in whole or in part from a release from a commercial or noncommercial underground storage tank as defined in G.S. 143-215.94A, any person required to implement an approved corrective action plan pursuant to this Rule and seeking reimbursement for the Commercial or Noncommercial Leaking Petroleum Underground Storage Tank Cleanup Funds shall implement a corrective action plan meeting the requirements of Paragraph (k) or (l) of this Rule unless the person demonstrates to the Secretary that:

- (1) contamination resulting from the discharge cannot qualify for approval of a plan based on the requirements of the Paragraphs; or
- (2) the cost of making such a demonstration would exceed the cost of implementing a corrective action plan submitted pursuant to Paragraph (c) of this Rule.

(s) If a discharge or release is not governed by the rules in Section .0400 of this Subchapter and the increase in the concentration of a substance in excess of the standard resulted in whole or in part from a release from a commercial or noncommercial underground storage tank as defined in G.S. 143-215.94A, the Secretary may require any person implementing or operating a previously approved corrective action plan pursuant to this Rule to:

- (1) develop and implement a corrective action plan meeting the requirements of Paragraphs (k) and (l) of this Rule; or
- (2) seek discontinuance of corrective action pursuant to Paragraph (m) of this Rule.

*History Note: Authority G.S. 143-215.1; 143-215.3; 143-215.94A; 143-215.94T; 143-215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1; Eff. August 1, 1989; Amended Eff. October 1, 1993; September 1, 1992; Temporary Amendment Eff. January 2, 1998; January 2, 1996; Amended Eff. July 1, 2016; October 29, 1998.*

#### **15A NCAC 02L .0107 COMPLIANCE BOUNDARY**

(a) For disposal systems individually permitted prior to December 30, 1983, the compliance boundary is established at a horizontal distance of 500 feet from the waste boundary or at the property boundary, whichever is closer to the source.

(b) For disposal systems individually permitted on or after December 30, 1983, a compliance boundary shall be established 250 feet from the waste boundary, or 50 feet within the property boundary, whichever point is closer to the source.

(c) The boundary shall be established by the Director, or his designee at the time of permit issuance. Any sale or transfer of property which affects a compliance boundary shall be reported immediately to the Director, or his designee. For disposal systems which are not governed by Paragraphs (e) or (f) of this Rule, the compliance boundary affected by the sale or transfer of property will be re-established consistent with Paragraphs (a) or (b) of this Rule, whichever is applicable.

(d) Except as provided in Paragraph (g) of this Rule, no water supply wells shall be constructed or operated within the compliance boundary of a disposal system individually permitted or re-permitted after January 1, 1993.

(e) Except as provided in Paragraph (g) of this Rule, a permittee shall not transfer land within an established compliance boundary of a disposal system permitted or re-permitted after January 1, 1993 unless:

- (1) the land transferred is serviced by a community water system as defined in 15A NCAC 18C, the source of which is located outside the compliance boundary; and
- (2) the deed transferring the property:
  - (A) contains notice of the permit, including the permit number, a description of the type of permit, and the name, address and telephone number of the permitting agency; and
  - (B) contains a restrictive covenant running with the land and in favor of the permittee and the State, as a third party beneficiary, which prohibits the construction and operation of water supply wells within the compliance boundary; and
  - (C) contains a restrictive covenant running with the land and in favor of the permittee and the State, as a third party beneficiary, which grants the right to the permittee and the State to enter on such property within the compliance boundary for groundwater monitoring and remediation purposes.

(f) Except as provided in Paragraph (g) of this Rule, if at the time a permit is issued or reissued after January 1, 1993, the permittee is not the owner of the land within the compliance boundary, it shall be a condition of the permit issued or renewed



that the landowner of the land within the compliance boundary, if other than the permittee, execute and file in the Register of Deeds in the county in which the land is located, an easement running with the land which:

- (1) contains:
    - (A) either a notice of the permit, including the permit number, a description of the type of permit, and the name, address and telephone number of the permitting agency; or
    - (B) a reference to a notice of the permit with book and page number of its recordation if such notice is required to be filed by statute;
  - (2) prohibits the construction and operation of water supply wells within the compliance boundary; and
  - (3) reserves the right to the permittee and the State to enter on such property within the compliance boundary for groundwater monitoring and remediation purposes. The easement may be terminated by the Director when its purpose has been fulfilled or the need for the easement no longer exists. Under those conditions the Director shall, upon request by the landowner, file a document terminating the easement with the appropriate Register of Deeds.
- (g) The requirements of Paragraphs (d), (e) and (f) of this Rule are not applicable to ground adsorption treatment systems serving four or fewer single family dwellings or multiunit dwellings of four or fewer units.
- (h) The boundary shall form a vertical plane extending from the water table to the maximum depth of saturation.
- (i) For ground adsorption sewage treatment and disposal systems which are permitted under 15A NCAC 18A .1900, the compliance boundary shall be established at the property boundary.
- (j) Penalties authorized pursuant to G.S. 143-215.6A(a)(1) will not be assessed for violations of standards within a compliance boundary unless the violations are the result of violations of permit conditions or negligence in the management of the facility.
- (k) The Director shall require:
- (1) that permits for all activities governed by G.S. 143-215.1 be written to protect the quality of groundwater established by applicable standards, at the compliance boundary;
  - (2) that necessary groundwater quality monitoring shall be conducted within the compliance boundary; and
  - (3) that a violation of standards within the compliance boundary resulting from activities conducted by the permitted facility be remedied through clean-up, recovery, containment, or other response when any of the following conditions occur:
    - (A) a violation of any standard in adjoining classified groundwaters occurs or can be reasonably predicted to occur considering hydrogeologic conditions, modeling, or other available evidence;
    - (B) an imminent hazard or threat to the public health or safety exists; or
    - (C) a violation of any standard in groundwater occurring in the bedrock other than limestones found in the Coastal Plain sediments, unless it can be demonstrated that the violation will not adversely affect, or have the potential to adversely affect a water supply well.

*History Note:* Authority G.S. 143-215.1(b); 143-215.3(a)(1); 143B-282;  
Eff. August 1, 1989;  
Amended Eff. October 1, 1993; November 2, 1992.

#### **15A NCAC 02L .0108 REVIEW BOUNDARY**

A review boundary is established around any disposal system midway between the compliance boundary and the waste boundary. When the concentration of any substance equals or exceeds the standard at the review boundary as determined by monitoring, the permittee shall take action in accordance with the provisions of Rule .0106(c)(2)(A) of this Subchapter.

*History Note:* Authority G.S. 143-215.1(b); 143-215.3(a)(1); 143B-282;  
Eff. August 1, 1989.

#### **15A NCAC 02L .0109 DELEGATION**

(a) The Director is delegated the authority to enter into consent special orders under G.S. 143-215.2 for violations of the standards except when a public meeting is required as provided in 15A NCAC 2H .1203.

- (b) The Director is delegated the authority to prepare a proposed special order to be issued by the Commission without the consent of the person affected and to notify the affected person of that proposed order and of the procedure set out in G.S. 150B-23 to contest the proposed special order.
- (c) The Director, or his designee shall give public notice of proposed consent special orders as specified in 15A NCAC 2H .1203.

*History Note:* Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.3(a)(4);  
Eff. August 1, 1989;  
Amended Eff. October 1, 1993; October 1, 1990.

#### **15A NCAC 02L .0110 MONITORING**

- (a) Except where exempted by statute or this Subchapter, any person who causes, permits or has control over any discharge of waste, or groundwater cleanup program, shall install and implement a monitoring system, at such locations, and in such detail, as the Director, or his designee may require to evaluate the effects of the discharge upon the waters of the state, including the effect of any actions taken to restore groundwater quality, as well as the efficiency of any treatment facility. The monitoring plan shall be prepared under the responsible charge of a Professional Engineer or Licensed Geologist and bear the seal of the same.
- (b) Monitoring systems shall be constructed in a manner that will not result in the contamination of adjacent groundwaters of a higher quality.
- (c) Monitoring shall be conducted and results reported in a manner and at a frequency specified by the Director, or his designee.

*History Note:* Authority G.S. 143-215.1(b); 143-215.3(a)(1); 143-215.65; 143-215.66; 143B-282;  
Eff. August 1, 1989;  
Amended Eff. October 1, 1993.

#### **15A NCAC 02L .0111 REPORTS**

- (a) Any person subject to the requirements for corrective action specified in Rule .0106 of this Section shall submit to the Director, in such detail as the Director may require, a written report that describes:
- (1) the results of the investigation specified in Paragraphs (c) and (d) of Rule .0106 of this Section, including but not limited to:
    - (A) a description of the sampling procedures followed and methods of chemical analyses used; and
    - (B) all technical data utilized in support of any conclusions drawn or determinations made.
  - (2) the results of the predictive calculations or modeling, including a copy of the calculations or model runs and all supporting technical data, used in the demonstration required in Paragraph (d) of Rule .0106 of this Section; and
  - (3) the proposed methodology and timetable associated with the corrective action for those situations identified in Paragraphs (c) and (d) of Rule .0106 of this Section.
- (b) The report shall be prepared under the responsible charge of a Professional Engineer or Licensed Geologist and bear the seal of the same as specified in Rule .0106(d) of this Section.

*History Note:* Authority G.S. 143-215.1(b); 143-215.3(a)(1); 143-215.65; 143B-282;  
Eff. August 1, 1989;  
Amended Eff. October 1, 1993.

#### **15A NCAC 02L .0112 ANALYTICAL PROCEDURES**

Tests or analytical procedures to determine compliance or noncompliance with the standards established in Rule .0202 of this Subchapter will be in accordance with:

- (1) The most sensitive of the following methods or procedures for substances where the standard is at or above the method detection limit value:
  - (a) The most recent version of Standard Methods for the Examination of Water and Wastewater, published jointly by American Public Health Association, American Water Works Association and Water Pollution Control Federation;
  - (b) Methods for Chemical Analysis of Water and Waste, 1979, U.S. Environmental Protection Agency publication number EPA-600/4-79-020, as revised March 1983;
  - (c) Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods, 3rd Edition, 1986, U.S. Environmental Protection Agency publication number SW-846;
  - (d) Test Procedures for the Analysis of Pollutants Under the Clean Water Act, Federal Register Vol. 49, No. 209, 40 CFR Part 136, October 26, 1984;
  - (e) Methods or procedures approved by letter from the Director upon application by the regulated source; or
- (2) A method or procedure approved by the Director for substances where the standard is less than the method detection limit value.

*History Note:* Authority G.S. 143-215.3(a)(1); 143B-282;  
 Eff. August 1, 1989;  
 Amended Eff. October 1, 1993.

#### **15A NCAC 02L .0113 VARIANCE**

- (a) The Commission, on its own initiative or pursuant to a request under G.S. 143-215.3(e), may grant variances to the rules of this Subchapter.
- (b) Requests for variances are filed by letter from the applicant to the Environmental Management Commission. The application shall be mailed to the chairman of the Commission in care of the Director, Division of Environmental Management, Post Office Box 29535, Raleigh, N.C. 27626-0535.
- (c) The application shall contain the following information:
  - (1) Applications filed by counties or municipalities must include a resolution of the County Board of Commissioners or the governing board of the municipality requesting the variance.
  - (2) A description of the past, existing or proposed activities or operations that have or would result in a discharge of contaminants to the groundwaters.
  - (3) Description of the proposed area for which a variance is requested. A detailed location map, showing the orientation of the facility, potential for groundwater contaminant migration, as well as the area covered by the variance request, with reference to at least two geographic references (numbered roads, named streams/streams, etc.) must be included.
  - (4) Supporting information to establish that the variance will not endanger the public health and safety, including health and environmental effects from exposure to groundwater contaminants. (Location of wells and other water supply sources including details of well construction within 1/2 mile of site must be shown on a map).
  - (5) Supporting information to establish that requirements of this Rule cannot be achieved by providing the best available technology economically reasonable. This information must identify specific technology considered, and the costs of implementing the technology and the impact of the costs on the applicant.
  - (6) Supporting information to establish that compliance would produce serious financial hardship on the applicant.
  - (7) Supporting information that compliance would produce serious financial hardship without equal or greater public benefit.
  - (8) A copy of any Special Order that was issued in connection with contaminants in the proposed area and supporting information that applicant has complied with the Special Order.
  - (9) A list of the names and addresses of any property owners within the proposed area of the variance as well as any property owners adjacent to the site covered by the variance.
- (d) Upon receipt of the application, the Director will review it for completeness and request additional information if necessary. When the application is complete, the Director shall give public notice of the application and schedule the matter for a public hearing in accordance with G.S. 143-215.4(b) and the procedures set out in Paragraph (e) of this Rule.

(e) Notice of Public Hearing:

- (1) Notice of public hearing on any variance application shall be circulated in the geographical areas of the proposed variance by the Director at least 30 days prior to the date of the hearing:
    - (A) by publishing the notice one time in a newspaper having general circulation in said county;
    - (B) by mailing to the North Carolina Department of Environment, Health, and Natural Resources, Division of Environmental Health and appropriate local health agency;
    - (C) by mailing to any other federal, state or local agency upon request;
    - (D) by mailing to the local governmental unit or units having jurisdiction over the geographic area covered by the variance;
    - (E) by mailing to any property owner within the proposed area of the variance, as well as any property owners adjacent to the site covered by the variance; and
    - (F) by mailing to any person or group upon request.
  - (2) The contents of public notice of any hearing shall include at least the following:
    - (A) name, address, and phone number of agency holding the public hearing;
    - (B) name and address of each applicant whose application will be considered at the meeting;
    - (C) brief summary of the variance request;
    - (D) geographic description of a proposed area for which a variance is requested;
    - (E) brief description of activities or operations which have or will result in the discharge of contaminants to the groundwaters described in the variance application;
    - (F) a brief reference to the public notice issued for each variance application;
    - (G) information regarding the time and location for the hearing;
    - (H) the purpose of the hearing;
    - (I) address and phone number of premises at which interested persons may obtain further information, request a copy of each application, and inspect and copy forms and related documents; and
    - (J) a brief description of the nature of the hearing including the rules and procedures to be followed. The notice shall also state that additional information is on file with the Director and may be inspected at any time during normal working hours. Copies of the information on file will be made available upon request and payment of cost or reproduction.
- (f) All comments received within 30 days following the date of the public hearing shall be made part of the application file and shall be considered by the Commission prior to taking final action on the application.
- (g) In determining whether to grant a variance, the Commission shall consider whether the applicant has complied with any Special Order, or Special Order by Consent issued under G.S. 143-215.2.
- (h) If the Commission's final decision is unacceptable, the applicant may file a petition for a contested case in accordance with Chapter 150B of the General Statutes. If the petition is not filed within 60 days, the decision on the variance shall be final and binding.
- (i) A variance shall not operate as a defense to an action at law based upon a public or private nuisance theory or any other cause of action.

*History Note:* Authority G.S. 143-215.3(a)(1); 143-215.3(a)(3); 143-215.3(a)(4); 143-215.3(e); 143-215.4;  
Eff. August 1, 1989;  
Amended Eff. October 1, 1993.

**15A NCAC 02L .0114 NOTIFICATION REQUIREMENTS**

(a) Any person subject to the requirements of Rule .0106(c) of this Section shall submit to the local Health Director, and the chief administrative officer of the political jurisdictions in which the groundwater contamination has occurred, a report that describes:

- (1) The area extent of the contaminant plume;
- (2) The chemical constituents in the groundwater which exceed the standards described in Rule .0202 of this Subchapter;
- (3) Actions taken and intended to mitigate threats to human health;
- (4) The location of any wells installed for the purpose of monitoring the contaminant plume and the frequency of sampling.

The report described in this Rule shall be submitted no later than five working days after submittal of the completed report assessing the cause, significance and extent of the violation as required by Rule .0106(c).

(b) Any person who submits a request under Rule .0106(k), (l), or (m) of this Section shall notify the local Health Director and the chief administrative officer of the political jurisdictions in which the contaminant plume occurs, and all property owners and occupants within or contiguous to the area underlain by the contaminant plume, and under the areas where it is expected to migrate, of the nature of the request and reasons supporting it. Notification shall be made by certified mail concurrent with the submittal of the request to the Director. A final decision by the Director shall be postponed for a period of 30 days following receipt of the request so that the Director may consider comments submitted by individuals interested in the request.

(c) Any person whose request under Rule .0106(k), (l), or (m) of this Section is granted by the Director shall notify parties specified in Paragraph (b) of this Rule of the Director's decision. Notification shall be made by certified mail within 30 days of receipt of the Director's decision.

*History Note:* Authority G.S. 143-214.1; 143-215.3(a)(1); 143B-282(2)b;  
Eff. October 1, 1993.

## **15A NCAC 02L .0115 RISK-BASED ASSESSMENT AND CORRECTIVE ACTION FOR PETROLEUM UNDERGROUND STORAGE TANKS**

*History Note:* Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;  
Temporary Adoption Eff. January 2, 1998;  
Eff. October 29, 1998;  
Recodified to 15A NCAC 02L .0400 Eff. December 1, 2005.

### **SECTION .0200 - CLASSIFICATIONS AND GROUNDWATER QUALITY STANDARDS**

#### **15A NCAC 02L .0201 GROUNDWATER CLASSIFICATIONS**

The classifications which may be assigned to the groundwaters will be those specified in the following series of classifications:

- (1) Class GA groundwaters; usage and occurrence:
  - (a) Best Usage. Existing or potential source of drinking water supply for humans.
  - (b) Conditions Related to Best Usage. This class is intended for those groundwaters in which chloride concentrations are equal to or less than 250 mg/l, and which are considered suitable for drinking in their natural state, but which may require treatment to improve quality related to natural conditions.
  - (c) Occurrence. In the saturated zone.
- (2) Class GSA groundwaters; usage and occurrence:
  - (a) Best Usage. Existing or potential source of water supply for potable mineral water and conversion to fresh waters.
  - (b) Conditions Related to Best Usage. This class is intended for those groundwaters in which the chloride concentrations due to natural conditions is in excess of 250 mg/l, but which otherwise may be considered suitable for use as potable water after treatment to reduce concentrations of naturally occurring substances.
  - (c) Occurrence. In the saturated zone.
- (3) Class GC groundwaters; usage and occurrence:
  - (a) Best Usage. The best usage of GC groundwaters is as a source of water supply for purposes other than drinking, including other domestic uses by humans.
  - (b) Conditions Related to Best Usage. This class includes those groundwaters that do not meet the quality criteria for GA or GSA groundwaters and for which efforts to improve groundwater quality would not be technologically feasible, or not in the best interest of the public. Continued consumption of waters of this class by humans could result in adverse health affects.
  - (c) Occurrence. Groundwaters of this class may be defined by the Commission pursuant to Section .0300 of this Subchapter on a case by case basis.

*History Note: Authority G.S. 143-214.1; 143B-282(2);  
Eff. June 10, 1979;  
Amended Eff. October 1, 1993; August 1, 1989; September 1, 1984; December 30, 1983.*

## **15A NCAC 02L .0202 GROUNDWATER QUALITY STANDARDS**

(a) The groundwater quality standards for the protection of the groundwaters of the state are those specified in this Rule. They are the maximum allowable concentrations resulting from any discharge of contaminants to the land or waters of the state, which may be tolerated without creating a threat to human health or which would otherwise render the groundwater unsuitable for its intended best usage.

(b) The groundwater quality standards for contaminants specified in Paragraphs (h) and (i) of this Rule are as listed, except that:

- (1) Where the standard for a substance is less than the practical quantitation limit, the detection of that substance at or above the practical quantitation limit constitutes a violation of the standard.
- (2) Where two or more substances exist in combination, the Director shall consider the effects of chemical interactions as determined by the Division of Public Health and may establish maximum concentrations at values less than those established in accordance with Paragraphs (c), (h), or (i) of this Rule. In the absence of information to the contrary, in accordance with Paragraph (d) of this Rule, the carcinogenic risks associated with carcinogens present shall be considered additive and the toxic effects associated with non-carcinogens present shall also be considered additive.
- (3) Where naturally occurring substances exceed the established standard, the standard shall be the naturally occurring concentration as determined by the Director.
- (4) Where the groundwater standard for a substance is greater than the Maximum Contaminant Level (MCL), the Director shall apply the MCL as the groundwater standard at any private drinking water well or public water system well that may be impacted.

(c) Except for tracers used in concentrations which have been determined by the Division of Public Health to be protective of human health, and the use of which has been permitted by the Division, substances which are not naturally occurring and for which no standard is specified shall not be permitted in concentrations at or above the practical quantitation limit in Class GA or Class GSA groundwaters. Any person may petition the Director to establish an interim maximum allowable concentration for a substance for which a standard has not been established under this Rule. The petitioner shall submit relevant toxicological and epidemiological data, study results, and calculations necessary to establish a standard in accordance with Paragraph (d) of this Rule. Within three months after the establishment of an interim maximum allowable concentration for a substance by the Director, the Director shall initiate action to consider adoption of a standard for that substance.

(d) Except as provided in Paragraph (f) of this Rule, groundwater quality standards for substances in Class GA and Class GSA groundwaters are established as the least of:

- (1) Systemic threshold concentration calculated as follows:  $[\text{Reference Dose (mg/kg/day)} \times 70 \text{ kg (adult body weight)} \times \text{Relative Source Contribution (.10 for inorganics; .20 for organics)}] / [2 \text{ liters/day (avg. water consumption)}]$ ;
- (2) Concentration which corresponds to an incremental lifetime cancer risk of  $1 \times 10^{-6}$ ;
- (3) Taste threshold limit value;
- (4) Odor threshold limit value;
- (5) Maximum contaminant level; or
- (6) National secondary drinking water standard.

(e) The following references, in order of preference, shall be used in establishing concentrations of substances which correspond to levels described in Paragraph (d) of this Rule.

- (1) Integrated Risk Information System (U.S. EPA).
- (2) Health Advisories (U.S. EPA Office of Drinking Water).
- (3) Other health risk assessment data published by the U.S. EPA.
- (4) Other relevant, published health risk assessment data, and scientifically valid peer-reviewed published toxicological data.

(f) The Commission may establish groundwater standards less stringent than existing maximum contaminant levels or national secondary drinking water standards if it finds, after public notice and opportunity for hearing, that:

- (1) more recent data published in the EPA health references listed in Paragraph (e) of this Rule results in a standard which is protective of public health, taste threshold, or odor threshold;
- (2) the standard will not endanger the public health and safety, including health and environmental effects from exposure to groundwater contaminants; and
- (3) compliance with a standard based on the maximum contaminant level or national secondary drinking water standard would produce serious hardship without equal or greater public benefit.

(g) Groundwater quality standards specified in Paragraphs (h) and (i) of this Rule and interim maximum allowable concentrations established pursuant to Paragraph (c) of this Rule shall be reviewed by the Director on a triennial basis. Appropriate modifications to established standards shall be made in accordance with the procedure prescribed in Paragraph (d) of this Rule where modifications are considered appropriate based on data published subsequent to the previous review.

(h) Class GA Standards. Unless otherwise indicated, the standard refers to the total concentration in micrograms per liter of any constituent in a dissolved, colloidal or particulate form which is mobile in groundwater. This does not apply to sediment or other particulate matter which is preserved in a groundwater sample as a result of well construction or sampling procedures.

The Class GA standards are:

- (1) Acenaphthene: 80;
- (2) Acenaphthylene: 200;
- (3) Acetone: 6 mg/L;
- (4) Acrylamide: 0.008;
- (5) Anthracene: 2 mg/L;
- (6) Arsenic: 10;
- (7) Atrazine and chlorotriazine metabolites: 3;
- (8) Barium: 700;
- (9) Benzene: 1;
- (10) Benzo(a)anthracene (benz(a)anthracene): 0.05;
- (11) Benzo(b)fluoranthene: 0.05;
- (12) Benzo(k)fluoranthene: 0.5;
- (13) Benzoic acid: 30 mg/L;
- (14) Benzo(g,h,i)perylene: 200;
- (15) Benzo(a)pyrene: 0.005;
- (16) Bis(chloroethyl)ether: 0.03;
- (17) Bis(2-ethylhexyl) phthalate (di(2-ethylhexyl) phthalate): 3;
- (18) Boron: 700;
- (19) Bromodichloromethane: 0.6;
- (20) Bromoform (tribromomethane): 4;
- (21) n-Butylbenzene: 70;
- (22) sec-Butylbenzene: 70;
- (23) tert-Butylbenzene: 70;
- (24) Butylbenzyl phthalate: 1 mg/L;
- (25) Cadmium: 2;
- (26) Caprolactam: 4 mg/L;
- (27) Carbofuran: 40;
- (28) Carbon disulfide: 700;
- (29) Carbon tetrachloride: 0.3;
- (30) Chlordane: 0.1;
- (31) Chloride: 250 mg/L;
- (32) Chlorobenzene: 50;
- (33) Chloroethane: 3,000;
- (34) Chloroform (trichloromethane): 70;
- (35) Chloromethane (methyl chloride): 3;
- (36) 2-Chlorophenol: 0.4;
- (37) 2-Chlorotoluene (o-chlorotoluene): 100;
- (38) Chromium: 10;
- (39) Chrysene: 5;
- (40) Coliform organisms (total): 1 per 100 mL;
- (41) Color: 15 color units;

- (42) Copper: 1 mg/L;
- (43) Cyanide (free cyanide): 70;
- (44) 2, 4-D (2,4-dichlorophenoxy acetic acid): 70;
- (45) DDD: 0.1;
- (46) DDT: 0.1;
- (47) Dibenz(a,h)anthracene: 0.005;
- (48) Dibromochloromethane: 0.4;
- (49) 1,2-Dibromo-3-chloropropane: 0.04;
- (50) Dibutyl (or di-n-butyl) phthalate: 700;
- (51) 1,2-Dichlorobenzene (orthodichlorobenzene): 20;
- (52) 1,3-Dichlorobenzene (metadichlorobenzene): 200;
- (53) 1,4-Dichlorobenzene (paradichlorobenzene): 6;
- (54) Dichlorodifluoromethane (Freon-12; Halon): 1 mg/L;
- (55) 1,1-Dichloroethane: 6;
- (56) 1,2-Dichloroethane (ethylene dichloride): 0.4;
- (57) 1,2-Dichloroethene (cis): 70;
- (58) 1,2-Dichloroethene (trans): 100;
- (59) 1,1-Dichloroethylene (vinylidene chloride): 350;
- (60) 1,2-Dichloropropane: 0.6;
- (61) 1,3-Dichloropropene (cis and trans isomers): 0.4;
- (62) Dieldrin: 0.002;
- (63) Diethylphthalate: 6 mg/L;
- (64) 2,4-Dimethylphenol (m-xyleneol): 100;
- (65) Di-n-octyl phthalate: 100;
- (66) 1,4-Dioxane (p-dioxane): 3;
- (67) Dioxin (2,3,7,8-TCDD): 0.0002 ng/L;
- (68) 1,1-Diphenyl (1,1,-biphenyl): 400;
- (69) Dissolved solids (total): 500 mg/L;
- (70) Disulfoton: 0.3;
- (71) Diundecyl phthalate (Santicizer 711): 100;
- (72) Endosulfan: 40;
- (73) Endrin, total (includes endrin, endrin aldehyde and endrin ketone): 2;
- (74) Epichlorohydrin: 4;
- (75) Ethyl acetate: 3 mg/L;
- (76) Ethylbenzene: 600;
- (77) Ethylene dibromide (1,2-dibromoethane): 0.02;
- (78) Ethylene glycol: 10 mg/L;
- (79) Fluoranthene: 300;
- (80) Fluorene: 300;
- (81) Fluoride: 2 mg/L;
- (82) Foaming agents: 500;
- (83) Formaldehyde: 600;
- (84) Gross alpha (adjusted) particle activity (excluding radium-226 and uranium): 15 pCi/L;
- (85) Heptachlor: 0.008;
- (86) Heptachlor epoxide: 0.004;
- (87) Heptane: 400;
- (88) Hexachlorobenzene (perchlorobenzene): 0.02;
- (89) Hexachlorobutadiene: 0.4;
- (90) Hexachlorocyclohexane isomers (technical grade): 0.02;
- (91) n-Hexane: 400;
- (92) Indeno(1,2,3-cd)pyrene: 0.05;
- (93) Iron: 300;
- (94) Isophorone: 40;
- (95) Isopropylbenzene: 70;
- (96) Isopropyl ether: 70;



- (97) Lead: 15;
- (98) Lindane (gamma hexachlorocyclohexane): 0.03;
- (99) Manganese: 50;
- (100) Mercury: 1;
- (101) Methanol: 4 mg/L;
- (102) Methoxychlor: 40;
- (103) Methylene chloride (dichloromethane): 5;
- (104) Methyl ethyl ketone (2-butanone): 4 mg/L;
- (105) 2-Methylnaphthalene: 30;
- (106) 3-Methylphenol (m-cresol): 400;
- (107) 4-Methylphenol (p-cresol): 40;
- (108) Methyl tert-butyl ether (MTBE): 20;
- (109) Naphthalene: 6;
- (110) Nickel: 100;
- (111) Nitrate (as N): 10 mg/L;
- (112) Nitrite (as N): 1 mg/L;
- (113) N-nitrosodimethylamine: 0.0007;
- (114) Oxamyl: 200;
- (115) Pentachlorophenol: 0.3;
- (116) Petroleum aliphatic carbon fraction class (C5 - C8): 400;
- (117) Petroleum aliphatic carbon fraction class (C9 - C18): 700;
- (118) Petroleum aliphatic carbon fraction class (C19 - C36): 10 mg/L;
- (119) Petroleum aromatics carbon fraction class (C9 - C22): 200;
- (120) pH: 6.5 - 8.5;
- (121) Phenanthrene: 200;
- (122) Phenol: 30;
- (123) Phorate: 1;
- (124) n-Propylbenzene: 70;
- (125) Pyrene: 200;
- (126) Selenium: 20;
- (127) Silver: 20;
- (128) Simazine: 4;
- (129) Styrene: 70;
- (130) Sulfate: 250 mg/L;
- (131) 1,1,2,2-Tetrachloroethane: 0.2;
- (132) Tetrachloroethylene (perchloroethylene; PCE): 0.7;
- (133) 2,3,4,6-Tetrachlorophenol: 200;
- (134) Toluene: 600;
- (135) Toxaphene: 0.03;
- (136) 2,4,5-TP (Silvex): 50;
- (137) 1,2,4-Trichlorobenzene: 70;
- (138) 1,1,1-Trichloroethane: 200;
- (139) Trichloroethylene (TCE): 3;
- (140) Trichlorofluoromethane: 2 mg/L;
- (141) 1,2,3-Trichloropropane: 0.005;
- (142) 1,2,4-Trimethylbenzene: 400;
- (143) 1,3,5-Trimethylbenzene: 400;
- (144) 1,1,2-Trichloro-1,2,2-trifluoroethane (CFC-113): 200 mg/L;
- (145) Vinyl chloride: 0.03;
- (146) Xylenes (o-, m-, and p-): 500; and
- (147) Zinc: 1 mg/L.

- (i) Class GSA Standards. The standards for this class are the same as those for Class GA except as follows:
  - (1) chloride: allowable increase not to exceed 100 percent of the natural quality concentration; and
  - (2) dissolved solids (total): 1000 mg/L.
- (j) Class GC Standards.

- (1) The concentrations of substances that, at the time of classification, exceed the standards applicable to Class GA or GSA groundwaters shall not be caused to increase, nor shall the concentrations of other substances be caused to exceed the GA or GSA standards as a result of further disposal of contaminants to or beneath the surface of the land within the boundary of the area classified GC.
- (2) The concentrations of substances that, at the time of classification, exceed the standards applicable to GA or GSA groundwaters shall not be caused to migrate as a result of activities within the boundary of the GC classification, so as to violate the groundwater or surface water quality standards in adjoining waters of a different class.
- (3) Concentrations of specific substances, that exceed the established standard at the time of classification, are listed in Section .0300 of this Subchapter.

*History Note:* Authority G.S. 143-214.1; 143B-282(a)(2);  
Eff. June 10, 1979;  
Amended Eff. November 1, 1994; October 1, 1993; September 1, 1992; August 1, 1989;  
Temporary Amendment Eff. June 30, 2002;  
Amended Eff. August 1, 2002;  
Temporary Amendment Expired February 9, 2003;  
Amended Eff. April 1, 2013; January 1, 2010; April 1, 2005.

## **SECTION .0300 - ASSIGNMENT OF UNDERGROUND WATER CLASSIFICATIONS**

### **15A NCAC 02L .0301 CLASSIFICATIONS: GENERAL**

(a) Schedule of Classifications. The classifications are based on the quality, occurrence and existing or contemplated best usage of the groundwaters as established in Section .0200 of this Subchapter and are assigned statewide except where supplemented or supplanted by specific classification assignments by major river basins.

(b) Classifications and Water Quality Standards. The classifications and standards assigned to the groundwaters are denoted by the letters GA, GSA, or GC. These classifications refer to the classifications and standards established by Rule .0201 of this Subchapter.

*History Note:* Authority G.S. 143-214.1; 143B-282(2);  
Eff. December 30, 1983;  
Amended Eff. August 1, 1989.

### **15A NCAC 02L .0302 STATEWIDE**

The classifications assigned to the groundwaters located within the boundaries or under the extraterritorial jurisdiction of the State of North Carolina are:

- (1) Class GA Waters. Those groundwaters in the state naturally containing 250 mg/l or less of chloride are classified GA.
- (2) Class GSA Waters. Those groundwaters in the state naturally containing greater than 250 mg/l chloride are classified GSA.
- (3) Class GC Waters. Those groundwaters assigned the classification GC in Rules .0303 - .0318 of this Section.

*History Note:* Authority G.S. 143-214.1; 143B-282(2);  
Eff. December 30, 1983;  
Amended Eff. August 1, 1989.

### **15A NCAC 02L .0303 BROAD RIVER BASIN**

No classification assignments other than those specified in Rule .0302 are made for the river basin.

*History Note:* Authority G.S. 143-214.1;

*Eff. December 30, 1983.*

**15A NCAC 02L .0304 CAPE FEAR RIVER BASIN**

No classification assignments other than those specified in Rule .0302 are made for the river basin.

*History Note: Authority G.S. 143-214.1;  
Eff. December 30, 1983.*

**15A NCAC 02L .0305 CATAWBA RIVER BASIN**

No classification assignments other than those specified in Rule .0302 are made for the river basin.

*History Note: Authority G.S. 143-214.1;  
Eff. December 30, 1983.*

**15A NCAC 02L .0306 CHOWAN RIVER BASIN**

No classification assignments other than those specified in Rule .0302 are made for the river basin.

*History Note: Authority G.S. 143-214.1;  
Eff. December 30, 1983.*

**15A NCAC 02L .0307 FRENCH BROAD RIVER BASIN**

No classification assignments other than those specified in Rule .0302 are made for the river basin.

*History Note: Authority G.S. 143-214.1;  
Eff. December 30, 1983.*

**15A NCAC 02L .0308 HIWASSEE RIVER BASIN**

No classification assignments other than those specified in Rule .0302 are made for the river basin.

*History Note: Authority G.S. 143-214.1;  
Eff. December 30, 1983.*

**15A NCAC 02L .0309 LITTLE TENNESSEE RIVER BASIN**

No classification assignments other than those specified in Rule .0302 are made for the river basin.

*History Note: Authority G.S. 143-214.1;  
Eff. December 30, 1983.*

**15A NCAC 02L .0310 SAVANNAH RIVER BASIN**

No classification assignments other than those specified in Rule .0302 are made for the river basin.

*History Note:* Authority G.S. 143-214.1;  
Eff. December 30, 1983.

**15A NCAC 02L .0311 LUMBER RIVER BASIN**

No classification assignments other than those specified in Rule .0302 are made for the river basin.

*History Note:* Authority G.S. 143-214.1;  
Eff. December 30, 1983.

**15A NCAC 02L .0312 NEUSE RIVER BASIN**

No classification assignments other than those specified in Rule .0302 are made for the river basin.

*History Note:* Authority G.S. 143-214.1;  
Eff. December 30, 1983.

**15A NCAC 02L .0313 NEW-WATAUGA RIVER BASIN**

No classification assignments other than those specified in Rule .0302 are made for the river basin.

*History Note:* Authority G.S. 143-214.1;  
Eff. December 30, 1983.

**15A NCAC 02L .0314 PASQUOTANK RIVER BASIN**

No classification assignments other than those specified in Rule .0302 are made for the river basin.

*History Note:* Authority G.S. 143-214.1;  
Eff. December 30, 1983.

**15A NCAC 02L .0315 ROANOKE RIVER BASIN**

No classification assignments other than those specified in Rule .0302 are made for the river basin.

*History Note:* Authority G.S. 143-214.1;  
Eff. December 30, 1983.

**15A NCAC 02L .0316 TAR PAMLICO RIVER BASIN**

No classification assignments other than those specified in Rule .0302 are made for the river basin.

*History Note:* Authority G.S. 143-214.1;  
Eff. December 30, 1983.

**15A NCAC 02L .0317 WHITE OAK RIVER BASIN**

No classification assignments other than those specified in Rule .0302 are made for the river basin.

*History Note:* Authority G.S. 143-214.1;  
Eff. December 30, 1983.

**15A NCAC 02L .0318 YADKIN-PEE DEE RIVER BASIN**

No classification assignments other than those specified in Rule .0302 are made for the river basin.

*History Note:* Authority G.S. 143-214.1;  
Eff. December 30, 1983.

**15A NCAC 02L .0319 RECLASSIFICATION**

The groundwater classifications as assigned may be revised by the Commission following public notice and subsequent public hearing. Changes may be to a higher or lower classification. Reclassification requests may be submitted to the Director.

*History Note:* Authority G.S. 143-214.1; 143-215.3(e); 143B-282(2);  
Eff. December 30, 1983;  
Amended Eff. August 1, 1989.

**SECTION .0400 - RISK-BASED ASSESSMENT AND CORRECTIVE ACTION FOR PETROLEUM  
UNDERGROUND STORAGE TANKS**

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

- (a) The purpose of this Section is to establish procedures for risk-based assessment and corrective action sufficient to:
- (1) protect human health and the environment;
  - (2) abate and control contamination of the waters of the State as deemed necessary to protect human health and the environment;
  - (3) permit management of the State's groundwaters to protect their designated current usage and potential future uses;
  - (4) provide for anticipated future uses of the State's groundwater;
  - (5) recognize the diversity of contaminants, the State's geology and the characteristics of each individual site; and
  - (6) accomplish these goals in a cost-efficient manner to assure the best use of the limited resources available to address groundwater pollution within the State.
- (b) The applicable portions of Section .0100 not specifically excluded apply to this Section.

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

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

The definitions as set out in 15A NCAC 02L .0102 apply to this Section.

*History Note:* Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-215.94V;  
143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1;  
Eff. December 1, 2005.

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

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

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

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

- (a) A responsible party for a commercial underground storage tank shall:
- (1) take action to prevent any further discharge or release of petroleum from the underground storage tank; identify and mitigate any fire, explosion, or vapor hazard; remove any free product; and comply with the requirements of Rules .0601 through .0604, .0701 through .0703, and .0705 of Subchapter 02N within 24 hours of discovery;
  - (2) incorporate the requirements of 15A NCAC 02N .0704 into the submittal required under Item (3) of this Paragraph or the limited site assessment report required under 15A NCAC 02L .0405 of this Section, whichever is applicable. The submittals shall constitute compliance with the reporting requirements of 15A NCAC 02N .0704(b); and
  - (3) submit within 90 days of the discovery of the discharge or release a soil contamination report containing information sufficient to show that remaining unsaturated soil in the side walls and at the base of the excavation does not contain contaminant levels that exceed either the "soil-to-groundwater" or the residential maximum soil contaminant concentrations established by the Department pursuant to 15A NCAC 02L .0411 of this Section, whichever is lower. If the showing is made, the discharge or release shall be classified as low risk by the Department as defined in Rules .0406 and .0407 of this Section.
- (b) A responsible party for a noncommercial underground storage tank shall:
- (1) take necessary actions to protect public health, safety, and welfare and the environment, including actions to prevent any further discharge or release of petroleum from the noncommercial underground storage tank; to identify and mitigate any fire, explosion, or vapor hazard; and to report the release within 24 hours of discovery, in compliance with G.S. 143-215.83(a), G.S. 143-215.84(a), G.S. 143-215.85(b), and G.S. 143-215.94E; and
  - (2) provide or otherwise make available any information required by the Department to determine the site risk as described in Rules .0405, .0406, and .0407 of this Section.
- (c) The Department shall notify the responsible party for a noncommercial underground storage tank that no cleanup, no further cleanup, or no further action shall be required without requiring additional soil remediation pursuant to Rule .0408 of this Section, if the site is determined by the Department to be low risk. This classification shall be based on information provided to the Department that:
- (1) describes the source and type of the petroleum release, site-specific risk factors, and risk factors present in the surrounding area as defined in Rules .0406 and .0407 of this Section;
  - (2) demonstrates that no remaining risk factors are present that are likely to be affected per G.S. 143-215.94V(b); or
  - (3) documents that soils remaining onsite do not contain contaminant levels that exceed either the "soil-to-groundwater" or the residential maximum soil contaminant concentrations established by the Department pursuant to Rule .0411 of this Section, whichever is lower.

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

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

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

If the required showing for a commercial underground storage tank cannot be made or if the Department determines that a release from a noncommercial underground storage tank represents an unacceptable risk under 15A NCAC 02L .0404 of this Section, the responsible party shall submit within 120 days of the discovery of the discharge or release, or within such other greater time limit approved by the Department pursuant to Item (10) of this Rule, a report containing information needed by the Department to classify the level of risk to human health and the environment posed by a discharge or release under 15A NCAC 02L .0406 of this Section. The report shall include:

- (1) a location map, based on a USGS topographic map, showing the radius of 1500 feet from the source area of a confirmed release or discharge and depicting all water supply wells, surface waters, and designated wellhead protection areas as defined in 42 U.S.C. 300h-7(e) within the 1500-foot radius. 42 U.S.C. 300h-7(e), is incorporated by reference including subsequent amendments and editions. Copies may be obtained at no cost from the U.S. Government Bookstore's website at <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 Environmental Quality, UST Section, 217 West Jones Street, Raleigh, NC 27603. For purposes of this Section, source area means point of release or discharge from the underground storage tank system;
- (2) a determination of whether the source area of the discharge or release is within a designated wellhead protection area as defined in 42 U.S.C. 300h-7(e);
- (3) if the discharge or release is in the Coastal Plain physiographic region as designated on a map entitled "Geology of North Carolina" published by the Department in 1985, a determination of whether the source area of the discharge or release is located in an area in which there is recharge to an unconfined or semi-confined deeper aquifer that is being used or may be used as a source of drinking water;
- (4) a determination of whether vapors from the discharge or release pose a threat of explosion due to the accumulation of vapors in a confined space or pose any other serious threat to public health, public safety, or the environment;
- (5) scaled site map(s) showing the location of the following that are on or adjacent to the property where the source is located: site boundaries, roads, buildings, basements, floor and storm drains, subsurface utilities, septic tanks and leach fields, underground storage tank systems, monitoring wells, borings, and the sampling points;
- (6) the results from a limited site assessment that shall include:
  - (a) the analytical results from soil samples collected during the construction of a monitoring well installed in the source area of each confirmed discharge or release from a noncommercial or commercial underground storage tank and either the analytical results of a groundwater sample collected from the well or, if free product is present in the well, the amount of free product in the well. The soil samples shall be collected every five feet in the unsaturated zone unless a water table is encountered at or greater than a depth of 25 feet from land surface in which case soil samples shall be collected every 10 feet in the unsaturated zone. The soil samples shall be collected from suspected worst-case locations exhibiting visible contamination or elevated levels of volatile organic compounds in the borehole;
  - (b) if any constituent in the groundwater sample from the source area monitoring well installed in accordance with Sub-item (a) of this Item, for a site meeting the high risk classification in 15A NCAC 02L .0406(1), exceeds the standards or interim standards established in 15A NCAC 02L .0202 by a factor of 10 and is a discharge or release from a commercial underground storage tank, the analytical results from a groundwater sample collected from each of three additional

monitoring wells or, if free product is present in any of the wells, the amount of free product in such well. The three additional monitoring wells shall be installed as follows: as best as may be determined, one upgradient of the source of contamination and two downgradient of the source of contamination. The monitoring wells installed upgradient and downgradient of the source of contamination shall be located such that groundwater flow direction may be determined; and

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

*History Note: Authority G.S. 143-215.2; 143-215.3(a)(1); 143-215.94A; 143-215.94E; 143-215.94T; 143-215.94V; 143B-282; 1995 (Reg. Sess. 1996) c. 648, s. 1; Recodified from 15A NCAC 02L .0115(c)(4); Amended Eff. December 1, 2005; Temporary Amendment Eff. September 29, 2017.*

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

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

- (1) "High risk" means that:
  - (a) a water supply well, including one used for non-drinking purposes, has been contaminated by the release or discharge;
  - (b) a water supply well used for drinking water is located within 1000 feet of the source area of a confirmed discharge or release from a commercial underground storage tank or a noncommercial underground storage tank storing motor fuel as defined by G.S. 143-215.94A(2)a., (7);
  - (c) a water supply well not used for drinking water is located within 250 feet of the source area of a confirmed discharge or release from a commercial underground storage tank or a noncommercial underground storage tank storing motor fuel as defined by G.S. 143-215.94A(2)a., (7);
  - (d) the groundwater within 500 feet of the source area of a confirmed discharge or release from a commercial underground storage tank or a noncommercial underground storage tank storing motor fuel as defined by G.S. 143-215.94A(2)a., (7) has the potential for future use in that there is no source of water supply other than the groundwater;
  - (e) a water supply well, including one used for non-drinking purposes, is located within 150 feet of the source area of a confirmed discharge or release from a noncommercial underground storage tank storing heating oil for consumptive use on the premises;
  - (f) the vapors from the discharge or release pose a serious threat of explosion due to accumulation of the vapors in a confined space; or
  - (g) the discharge or release poses an imminent danger to public health, public safety, or the environment.
- (2) "Intermediate risk" means that:



- (a) surface water is located within 500 feet of the source area of a confirmed discharge or release from a commercial underground storage tank and the maximum groundwater contaminant concentration exceeds the applicable surface water quality standards and criteria found in 15A NCAC 02B .0200 by a factor of 10;
  - (b) in the Coastal Plain physiographic region as designated on a map entitled "Geology of North Carolina" published by the Department in 1985, the source area of a confirmed discharge or release from a commercial underground storage tank is located in an area in that there is recharge to an unconfined or semi-confined deeper aquifer which the Department determines is being used or may be used as a source of drinking water;
  - (c) the source area of a confirmed discharge or release from a commercial underground storage tank is within a designated wellhead protection area, as defined in 42 U.S.C. 300h-7(e);
  - (d) the levels of groundwater contamination associated with a confirmed discharge or release from a commercial underground storage tank for any contaminant except ethylene dibromide, benzene, and alkane and aromatic carbon fraction classes exceed 50 percent of the solubility of the contaminant at 25 degrees Celsius or 1,000 times the groundwater standard or interim standard established in 15A NCAC 02L .0202, whichever is lower; or
  - (e) the levels of groundwater contamination associated with a confirmed discharge or release from a commercial underground storage tank for ethylene dibromide and benzene exceed 1,000 times the federal drinking water standard set out in 40 CFR 141. 40 CFR 141, is incorporated by reference including subsequent amendments and editions. Copies may be obtained at no cost from the U.S. Government Bookstore's website at <https://www.gpo.gov/fdsys/pkg/CFR-2015-title40-vol23/pdf/CFR-2015-title40-vol23-part141.pdf>. The material is available for inspection at the Department of Environmental Quality, UST Section, 217 West Jones Street, Raleigh, NC 27603.
- (3) "Low risk" means that:
- (a) the risk posed does not fall within the high risk category for any underground storage tank, or within the intermediate risk category for a commercial underground storage tank; or
  - (b) based on review of site-specific information, limited assessment, or interim corrective actions, the Department determines that the discharge or release poses no significant risk to human health or the environment.

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

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

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

- (a) The Department may reclassify the risk posed by a release if warranted by further information concerning the potential exposure of receptors to the discharge or release or upon receipt of new information concerning changed conditions at the site. After initial classification of the discharge or release, the Department may require limited assessment, interim corrective action, or other actions which the Department believes will result in a lower risk classification. It shall be a continuing obligation of each responsible party to notify the Department of any changes that might affect the level of risk assigned to a discharge or release by the Department if the change is known or should be known by the responsible party. Such changes shall include, but shall not be limited to, changes in zoning of real property, use of real property or the use of groundwater that has been contaminated or is expected to be contaminated by the discharge or release, if such change could cause the Department to reclassify the risk.
- (b) If the risk posed by a discharge or release is determined by the Department to be high risk, the responsible party shall comply with the assessment and cleanup requirements of Rule .0106(c), (g) and (h) of this Subchapter and 15A NCAC 02N .0706 and .0707. The goal of any required corrective action for groundwater contamination shall be restoration to the level of the groundwater standards set forth in 15A NCAC 02L .0202, or as closely thereto as is economically and technologically feasible. In any corrective action plan submitted pursuant to this Paragraph, natural attenuation shall be used to the maximum extent possible. If the responsible party demonstrates that natural attenuation prevents the further migration of the plume, the Department may approve a groundwater monitoring plan.

(c) If the risk posed by a discharge or release is determined by the Department to be an intermediate risk, the responsible party shall comply with the assessment requirements of 15A NCAC 02L .0106(c) and (g) and 15A NCAC 02N .0706. As part of the comprehensive site assessment, the responsible party shall evaluate, based on site specific conditions, whether the release poses a significant risk to human health or the environment. If the Department determines, based on the site-specific conditions, that the discharge or release does not pose a significant threat to human health or the environment, the site shall be reclassified as a low risk site. If the site is not reclassified, the responsible party shall, at the direction of the Department, submit a groundwater monitoring plan or a corrective action plan, or a combination thereof, meeting the cleanup standards of this Paragraph and containing the information required in 15A NCAC 02L .0106(h) and 15A NCAC 02N .0707. Discharges or releases which are classified as intermediate risk shall be remediated, at a minimum, to a cleanup level of 50 percent of the solubility of the contaminant at 25 degrees Celsius or 1,000 times the groundwater standard or interim standard established in 15A NCAC 02L .0202, whichever is lower for any groundwater contaminant except ethylene dibromide, benzene and alkane and aromatic carbon fraction classes. Ethylene dibromide and benzene shall be remediated to a cleanup level of 1,000 times the federal drinking water standard set out in 40 CFR 141. Additionally, if a corrective action plan or groundwater monitoring plan is required under this Paragraph, the responsible party shall demonstrate that the groundwater cleanup levels are sufficient to prevent a violation of:

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

In any corrective action plan submitted pursuant to this Paragraph, natural attenuation shall be used to the maximum extent possible.

(d) If the risk posed by a discharge or release is determined by the Department to be a low risk, the Department shall notify the responsible party that no cleanup, no further cleanup or no further action will be required by the Department unless the Department later determines that the discharge or release poses an unacceptable risk or a potentially unacceptable risk to human health or the environment. No notification will be issued pursuant to this Paragraph, however, until the responsible party has completed soil remediation pursuant to 15A NCAC 02L .0408 of this Section except as provided in 15A NCAC 02L .0416 of this Section or as closely thereto as economically or technologically feasible. The issuance by the Department of a notification under this Paragraph shall not affect any private right of action by any party which may be affected by the contamination.

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

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

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

- (1) At the time that the Department determines the risk posed by the discharge or release, the Department shall also determine, based on site-specific information, whether the site is "residential" or "industrial/commercial." For purposes of this Section, a site is presumed residential, but may be classified as industrial/commercial if the Department determines based on site-specific information that exposure to the soil contamination is limited in time due to the use of the site and shall not involve exposure to children. For purposes of this Paragraph, "site" means both the property upon which the discharge or release has occurred and any property upon which soil has been affected by the discharge or release.
- (2) For any discharge or release from a commercial underground storage tank, or for a discharge or release from a noncommercial underground storage tank classified by the Department as high risk, the responsible party shall submit a report to the Department assessing the vertical and horizontal extent of soil contamination.
- (3) For a discharge or release from a commercial underground storage tank classified by the Department as low risk, the responsible party shall submit a report demonstrating that soil contamination has been remediated to either the residential or industrial/commercial maximum soil contaminant concentration established by the Department pursuant to 15A NCAC 02L .0411 of this Section, whichever is applicable.

- (4) For a discharge or release classified by the Department as high or intermediate risk, the responsible party shall submit a report demonstrating that soil contamination has been remediated to the lower of:
- (a) the residential or industrial/commercial maximum soil contaminant concentration, whichever is applicable, that has been established by the Department pursuant to 15A NCAC 02L .0411 of this Section; or
  - (b) the "soil-to-groundwater" maximum soil contaminant concentration that has been established by the Department pursuant to 15A NCAC 02L .0411 of this Section.

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

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

(a) A responsible party who submits a corrective action plan that proposes natural attenuation, to cleanup groundwater contamination to a standard other than a standard or interim standard established in 15A NCAC 02L .0202, or to cleanup soil other than to the standard for residential use or soil-to-groundwater contaminant concentration established pursuant to this Section, whichever is lowest, shall give notice to: the local Health Director and the chief administrative officer of each political jurisdiction in which the contamination occurs; all property owners and occupants within or contiguous to the area containing the contamination; and all property owners and occupants within or contiguous to the area where the contamination is expected to migrate. The notice shall describe the nature of the plan and the reasons supporting it. Notification shall be made by certified mail concurrent with the submittal of the corrective action plan. Approval of the corrective action plan by the Department shall be postponed for a period of 30 days following receipt of the request so that the Department may consider comments submitted. The responsible party shall, within a time frame determined by the Department to be sufficient, provide the Department with a copy of the notice and proof of receipt of each required notice, or of refusal by the addressee to accept delivery of a required notice. If notice by certified mail to occupants under this Paragraph is impractical, the responsible party shall give notice by posting the notice in a manner designed to give actual notice to the occupants. If notice is made to occupants by posting, the responsible party shall provide the Department with a copy of the posted notice and a description of the manner in which such posted notice was given.

(b) A responsible party who receives a notice pursuant to 15A NCAC 02L .0404(c) or .0407(d) of this Section for a discharge or release that has not been remediated to the groundwater standards or interim standards established in Rule .0202 of this Subchapter or to the lower of the residential or soil-to-groundwater contaminant concentrations established under 15A NCAC 02L .0411 of this Section, shall, within 30 days of the receipt of such notice, provide a copy of the notice to: the local Health Director and the chief administrative officer of each political jurisdiction in which the contamination occurs; all property owners and occupants within or contiguous to the area containing contamination; and all property owners and occupants within or contiguous to the area where the contamination is expected to migrate. Notification shall be made by certified mail. The responsible party shall, within a time frame determined by the Department, provide the Department with proof of receipt of the copy of the notice, or of refusal by the addressee to accept delivery of the copy of the notice. If notice by certified mail to occupants under this Paragraph is impractical, the responsible party shall give notice by posting a copy of the notice in a manner designed to give actual notice to the occupants. If notice is made to occupants by posting, the responsible party shall provide the Department with a description of the manner in which the posted notice was given.

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

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

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

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

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

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

- (1) The following equations and references shall be used in establishing residential maximum soil contaminant concentrations. Equation 1 shall be used for each contaminant with an EPA carcinogenic classification of A, B1, B2, C, D or E. Equation 2 shall be used for each contaminant with an EPA carcinogenic classification of A, B1, B2 or C. The maximum soil contaminant concentration shall be the lower of the concentrations derived from Equations 1 and 2.
  - (a) Equation 1: Non-cancer Risk-based Residential Ingestion Concentration  
Soil mg/kg =  $[0.2 \times \text{oral chronic reference dose} \times \text{body weight, age 1 to 6} \times \text{averaging time noncarcinogens}] / [\text{exposure frequency} \times \text{exposure duration, age 1 to 6} \times (\text{soil ingestion rate, age 1 to 6} / 10^6 \text{ mg/kg})]$ .
  - (b) Equation 2: Cancer Risk-based Residential Ingestion Concentration  
Soil mg/kg =  $[\text{target cancer risk of } 10^{-6} \times \text{averaging time carcinogens}] / [\text{exposure frequency} \times (\text{soil ingestion factor, age adjusted} / 10^6 \text{ mg/kg}) \times \text{oral cancer slope factor}]$ . The age adjusted soil ingestion factor shall be calculated by:  $[(\text{exposure duration, age 1 to 6} \times \text{soil ingestion rate, age 1 to 6}) / (\text{body weight, age 1 to 6})] + [(\text{exposure duration, total} - \text{exposure duration, age 1 to 6}) \times \text{soil ingestion, adult}] / (\text{body weight, adult})]$ .
  - (c) The exposure factors selected in calculating the residential maximum soil contaminant concentrations shall be within the recommended ranges specified in the following references or the most recent version of these references:
    - (i) EPA, 1990. Exposure Factors Handbook;
    - (ii) EPA, 1991. Risk Assessment Guidance for Superfund: Volume I Human Health Evaluation Manual (Part B, Development of Risk Based Preliminary Remediation Goals);
    - (iii) EPA Region III. Risk-based Concentration Tables (RBC Tables). Office of RCRA, Technical and Program Support Branch. Available at: <http://www.epa.gov/reg3hwmd/index.html>; and
    - (iv) EPA, 1995. Supplemental Guidance to RAGS: Region 4 Bulletins Human Health Risk Assessment, including future amendments.
  - (d) The following references or the most recent version of these references, in order of preference, shall be used to obtain oral chronic reference doses and oral cancer slope factors:
    - (i) EPA. Integrated Risk Information System (IRIS) Computer Database;
    - (ii) EPA. Health Effects Assessment Summary Tables (HEAST);
    - (iii) EPA Region III. Risk-based Concentration Tables (RBC Tables). Office of RCRA, Technical and Program Support Branch. Available at: <http://www.epa.gov/reg3hwmd/index.html>;
    - (iv) EPA, 1995. Supplemental Guidance to RAGS: Region 4 Bulletins Human Health Risk Assessment, including future amendments; and
    - (v) Other appropriate, published health risk assessment data, and scientifically valid peer-reviewed published toxicological data.
- (2) The following equations and references shall be used in establishing industrial/commercial maximum soil contaminant concentrations. Equation 1 shall be used for each contaminant with an EPA carcinogenic classification of A, B1, B2, C, D or E. Equation 2 shall be used for each contaminant with an EPA carcinogenic classification of A, B1, B2 or C. The maximum soil contaminant concentration shall be the lower of the concentrations derived from Equations 1 and 2.
  - (a) Equation 1: Non-cancer Risk-based Industrial/Commercial Ingestion Concentration

Soil mg/kg =  $[0.2 \times \text{oral chronic reference dose} \times \text{body weight, adult} \times \text{averaging time noncarcinogens}] / [\text{exposure frequency} \times \text{exposure duration, adult} \times (\text{soil ingestion rate, adult} / 10^6 \text{ mg/kg}) \times \text{fraction of contaminated soil ingested}]$ .

- (b) Equation 2: Cancer Risk-based Industrial/Commercial Ingestion Concentration  
Soil mg/kg =  $[\text{target cancer risk of } 10^{-6} \times \text{body weight, adult} \times \text{averaging time carcinogens}] / [\text{exposure frequency} \times \text{exposure duration, adult} \times (\text{soil ingestion rate, adult} / 10^6 \text{ mg/kg}) \times \text{fraction of contaminated soil ingested} \times \text{oral cancer slope factor}]$ .
- (c) The exposure factors selected in calculating the industrial/commercial maximum soil contaminant concentrations shall be within the recommended ranges specified in the following references or the most recent version of these references:
- (i) EPA, 1990. Exposure Factors Handbook;
  - (ii) EPA, 1991. Risk Assessment Guidance for Superfund: Volume I Human Health Evaluation Manual (Part B, Development of Risk Based Preliminary Remediation Goals);
  - (iii) EPA Region III. Risk-based Concentration Tables (RBC Tables). Office of RCRA, Technical and Program Support Branch. Available at: <http://www.epa.gov/reg3hwmd/index.html>; and
  - (iv) EPA, 1995. Supplemental Guidance to RAGS: Region 4 Bulletins Human Health Risk Assessment, including future amendments.
- (d) The following references or the most recent version of these references, in order of preference, shall be used to obtain oral chronic reference doses and oral cancer slope factors:
- (i) EPA. Integrated Risk Information System (IRIS) Computer Database;
  - (ii) EPA. Health Effects Assessment Summary Tables (HEAST);
  - (iii) EPA Region III. Risk-based Concentration Tables (RBC Tables). Office of RCRA, Technical and Program Support Branch. Available at <http://www.epa.gov/reg3hwmd/index.html>;
  - (iv) EPA, 1995. Supplemental Guidance to RAGS: Region 4 Bulletins Human Health Risk Assessment, including future amendments; and
  - (v) Other appropriate, published health risk assessment data, and scientifically valid peer-reviewed published toxicological data.
- (3) The following equations and references shall be used in establishing the soil-to-groundwater maximum contaminant concentrations:
- (a) Organic Constituents:  
Soil mg/kg = groundwater standard or interim standard  $\times [(.02 \times \text{soil organic carbon-water partition coefficient}) + 4 + (1.733 \times 41 \times \text{Henry's Law Constant (atm.-m}^3/\text{mole)})]$ .
- (i) If no groundwater standard or interim standard has been established under Rule .0202 of this Subchapter, the practical quantitation limit shall be used in lieu of a standard to calculate the soil-to-groundwater maximum contaminant concentrations.
  - (ii) The following references or the most recent version of these references, in order of preference, shall be used to obtain soil organic carbon-water partition coefficients and Henry's Law Constants:
    - (A) EPA, 1996. Soil Screening Guidance: Technical Background Document. (EPA/540/R95/128);
    - (B) EPA, 1986. Superfund Public Health Evaluation Manual. Office of Emergency and Remedial Response (EPA/540/1-86/060);
    - (C) Agency for Toxic Substances and Disease Registry, "Toxicological Profile for [individual chemical]." U.S. Public Health Service;
    - (D) Montgomery, J.H., 1996. Groundwater Chemicals Desk Reference. CRC Press, Inc;
    - (E) Sims, R.C., J.L. Sims and S.G. Hansen, 1991. Soil Transport and Fate Database, Version 2.0. EPA Robert S. Kerr Environmental Laboratory; and
    - (F) Other appropriate, published, peer-reviewed and scientifically valid data.
- (b) Inorganic Constituents:  
Soil mg/kg = groundwater standard or interim standard  $\times [(20 \times \text{soil-water partition coefficient for pH of 5.5}) + 4 + (1.733 \times 41 \times \text{Henry's Law Constant (atm.-m}^3/\text{mole)})]$ .

- (i) If no groundwater standard or interim standard has been established under Rule .0202 of this Subchapter, the practical quantitation limit shall be used in lieu of a standard to calculate the soil-to-groundwater maximum contaminant concentrations.
- (ii) The following references or the most recent version of these references, in order of preference, shall be used to obtain soil-water partition coefficients and Henry's Law Constants:
  - (A) EPA, 1996. Soil Screening Guidance: Technical Background Document. (EPA/540/R95/128);
  - (B) Baes, C.F., III, R.D. Sharp, A.L. Sjoreen, and R.W. Shor, 1984. A Review and Analysis of Parameters for Assessing Transport of Environmentally Released Radionuclides Through Agriculture. Oak Ridge National Laboratory;
  - (C) Agency for Toxic Substances and Disease Registry, "Toxicological Profile for [individual chemical]." U.S. Public Health Service;
  - (D) Sims, R.C., J.L. Sims and S.G. Hansen, 1991. Soil Transport and Fate Database, Version 2.0. EPA Robert S. Kerr Environmental Laboratory; and
  - (E) Other appropriate, published, peer-reviewed and scientifically valid data.

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

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

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

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

- (1) soil samples collected from a discharge or release of low boiling point fuels, including, but not limited to gasoline, aviation gasoline and gasohol, shall be analyzed for volatile organic compounds and additives using EPA Method 8260, including isopropyl ether and methyl tertiary butyl ether;
- (2) soil samples collected from a discharge or release of high boiling point fuels, including, but not limited to, kerosene, diesel, varsol, mineral spirits, naphtha, jet fuels and fuel oil no. 2, shall be analyzed for volatile organic compounds using EPA Method 8260 and semivolatile organic compounds using EPA Method 8270;
- (3) soil samples collected from a discharge or release of heavy fuels shall be analyzed for semivolatile organic compounds using EPA Method 8270;
- (4) soil samples collected from a discharge or release of used and waste oil shall be analyzed for volatile organic compounds using EPA Method 8260, semivolatile organic compounds using EPA Method 8270, polychlorinated biphenyls using EPA Method 8080, and chromium and lead, using procedures specified in Subparagraph (6) of this Paragraph;
- (5) soil samples collected from any discharge or release subject to this Section shall be analyzed for alkane and aromatic carbon fraction classes using methods approved by the Director under Rule 2H .0805(a)(1) of this Chapter;
- (6) analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this Paragraph shall be performed as specified in the following references or the most recent version of these references: Test Methods for Evaluating Solid Wastes:Physical/Chemical Methods, November 1990, U.S. Environmental Protection Agency publication number SW-846; or in accordance with other methods or procedures approved by the Director under 15A NCAC 2H.0805(a)(1);
- (7) other EPA-approved analytical methods may be used if the methods include the same constituents as the analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this Paragraph and meet the detection limits of the analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this Paragraph; and
- (8) metals and acid extractable organic compounds shall be eliminated from analyses of soil samples collected pursuant to this Section if these compounds are not detected in soil samples collected during the construction of the source area monitoring well required under 15A NCAC 02L .0405 of this Section.

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

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

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

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

- (1) groundwater samples collected from a discharge or release of low boiling point fuels, including, but not limited to, gasoline, aviation gasoline and gasohol, shall be analyzed for volatile organic compounds using Standard Method 6210D or EPA Methods 601 and 602, including xylenes, isopropyl ether and methyl tertiary butyl ether. Samples shall also be analyzed for ethylene dibromide using EPA Method 504.1 and lead using Standard Method 3030C preparation. 3030C metals preparation, using a 0.45 micron filter, must be completed within 72 hours of sample collection;
- (2) groundwater samples collected from a discharge or release of high boiling point fuels, including, but not limited to, kerosene, diesel, varsol, mineral spirits, naphtha, jet fuels and fuel oil no. 2, shall be analyzed for volatile organic compounds using EPA Method 602 and semivolatile organic compounds plus the 10 largest non-target peaks identified using EPA Method 625;
- (3) groundwater samples collected from a discharge or release of heavy fuels shall be analyzed for semivolatile organic compounds plus the 10 largest non-target peaks identified using EPA Method 625;
- (4) groundwater samples collected from a discharge or release of used or waste oil shall be analyzed for volatile organic compounds using Standard Method 6210D, semivolatile organic compounds plus the 10 largest non-target peaks identified using EPA Method 625, and chromium and lead using Standard Method 3030C preparation. 3030C metals preparation, using a 0.45 micron filter, must be completed within 72 hours of sample collection;
- (5) groundwater samples collected from any discharge or release subject to this Section shall be analyzed for alkane and aromatic carbon fraction classes using methods approved by the Director under Rule 2H .0805(a)(1) of this Chapter;
- (6) analytical methods specified in Subparagraphs (1), (2), (3) and (4) of this Paragraph shall be performed as specified in the following references or the most recent version of these references: Test Procedures for the Analysis of Pollutants under the Clean Water Act, Federal Register Vol. 49 No. 209, 40 CFR Part 136, October 26, 1984; Standard Methods for the Examination of Water and Wastewater, published jointly by American Public Health Association, American Water Works Association and Water Pollution Control Federation; Methods for Determination of Organic Compounds in Drinking Water, U.S. Environmental Protection Agency publication number EPA-600/4-79-020; or in accordance with other methods or procedures approved by the Director under 15A NCAC 2H .0805(a)(1);
- (7) other EPA-approved analytical methods may be used if the methods include the same constituents as the analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this Paragraph and meet the detection limits of the analytical methods specified in Subparagraphs (1), (2), (3), and (4) of this Paragraph; and
- (8) metals and acid extractable organic compounds shall be eliminated from analyses of groundwater samples collected pursuant to this Section if these compounds are not detected in the groundwater sample collected from the source area monitoring well installed pursuant to 15A NCAC 02L .0405 of this Section.

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

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

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

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

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

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

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

#### **15A NCAC 02L .0416 ELIGIBILITY OF SITES TO CONTINUE REMEDIATION UNDER RULES EXISTING BEFORE THE EFFECTIVE DATE OF 15A NCAC 02L .0115**

If the risk posed by the discharge or release has been classified by the Department as Class AB under S.L. 1995-648, s. 1 (Reg. Sess., 1996), the discharge or release is classified as high risk under this Section unless and until the Department reclassifies the risk posed by the discharge or release. If the risk posed by the discharge or release has been classified by the Department as Class CDE under S.L. 1995-648, s. 1 (Reg. Sess., 1996), the discharge or release is classified as low risk under this Section unless and until the Department reclassifies the risk posed by the discharge or release. The responsible party shall notify the Department of any factors that might affect the level of risk assigned to Class AB or Class CDE discharges or releases by the Department. Responsible parties for Class AB discharges or releases for which a site assessment pursuant to Rule .0106 (c) and (g) of this Subchapter has been submitted to the Department before the effective date of this Section, shall continue to comply with notices previously received from the Department unless and until the Department determines that application of all or part of this Section is necessary to protect human health or the environment or may result in a more cost effective assessment and cleanup of the discharge or release. If a site assessment pursuant to Rule .0106 (c) and (g) of this Subchapter has not been submitted to the Department for a Class AB or Class CDE discharge or release before the effective date of this Section, the responsible party shall comply with 15A NCAC 02L .0404 of this Section unless the Department has issued a closure notice for the discharge or release. For discharges or releases classified as low risk under this Paragraph and for which a site assessment pursuant to Rule .0106 (c) and (g) of this Subchapter has been submitted to the Department prior to the effective date of this Section, the Department may issue a notification under 15A NCAC 02L .0407(d) of this Section if the responsible party demonstrates that soil contamination does not exceed contamination cleanup levels established (March 1997) in 15A NCAC 02L .0417 of this Section.

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

#### **15A NCAC 02L .0417 ESTABLISHING CLEANUP REQUIREMENTS FOR SITES ELIGIBLE TO CONTINUE REMEDIATION UNDER RULES EXISTING BEFORE THE EFFECTIVE DATE OF 15A NCAC 02L .0115**

The Department may issue a notification under 15A NCAC 02L .0407(d) of this Section for a discharge or release classified as low risk under 15A NCAC 02L .0416 of this Section if a site assessment pursuant to Rule .0106(c) and (g) of this Subchapter was submitted to the Department prior to the effective date of this Section and the responsible party demonstrates that soil contamination from the discharge or release has been remediated to the final cleanup levels established under this Paragraph. If it has not already done so, a responsible party must submit all information necessary for the Department to establish a cleanup level under this Paragraph, including, but not limited to, the completed forms contained in Tables 1 and 2. The following requirements are used to establish cleanup levels for sites eligible to continue remediation under the rules existing prior to the effective date of this Section.

- (1) In establishing a cleanup level, the Department shall determine whether any of the following conditions apply to the discharge or release:
  - (a) groundwater is contaminated by the discharge or release;



- (b) contaminated soil in the unsaturated zone is located less than five feet from the seasonal high water table, bedrock or transmissive indurated sedimentary units. Transmissive indurated sedimentary units shall include, but shall not be limited to shell limestone, fractured shale and sandstone; or
  - (c) vapors pose a serious threat of explosion or other public health concern due to the accumulation of the vapors in a confined space.
- (2) If any of the conditions specified in Item (1) of this Paragraph apply to the discharge or release, the final cleanup level for the discharge or release shall be:
- (a) 10 mg/kg total petroleum hydrocarbons for discharges or releases of low boiling point fuels, including, but not limited to, gasoline, aviation gasoline, and gasohol;
  - (b) 40 mg/kg total petroleum hydrocarbons for discharges or releases of medium and high boiling point fuels, including, but not limited to, kerosene, diesel, varsol, mineral spirits, naphtha, jet fuels and fuel oil no. 2; and
  - (c) 250 mg/kg total petroleum hydrocarbons for discharges or releases of waste oil and heavy fuels, including, but not limited to fuel oil nos. 4, 5 and 6, motor oil and hydraulic fluid.
- (3) If the conditions specified in Item (1) of this Paragraph do not apply to the discharge or releases, the Department shall determine a final cleanup level in the following manner:
- (a) the total site characteristics score shall be determined from Table 1 by recording and adding the five characteristic scores;
  - (b) the total site characteristics score shall be used to determine each applicable initial cleanup level on Table 2;
  - (c) using Table 3, the applicable Site Code shall be determined; and
  - (d) the final contamination cleanup level for the discharge or release shall be determined by multiplying each applicable initial cleanup level determined in Sub-item (b) of this Item by 1 for Code A sites, 2 for Code B sites and 3 for Code C sites.
- (4) Any soil samples obtained to determine cleanup levels pursuant to this Paragraph shall be analyzed as follows:
- (a) soil samples collected from a discharge or release of low boiling point fuels including, but not limited to, gasoline, aviation gasoline and gasohol, shall be analyzed using EPA Method modified 8015 (California Method) with EPA Method 5030 preparation;
  - (b) soil samples collected from a discharge or release of medium or high boiling point fuels including, but not limited to, kerosene, diesel, varsol, mineral spirits, naphtha, jet fuels and fuel oil no. 2, shall be analyzed using EPA Method modified 8015 (California Method) with EPA Method 3550 preparation; and
  - (c) soil samples collected from a discharge or release of waste oil and heavy fuels, including, but not limited to fuel oil nos. 4, 5 and 6, motor oil and hydraulic fluid, shall be analyzed using EPA Method 9071 or another equivalent EPA-approved method that meets the same detection limits.
- (5) Analytical methods for any soil samples obtained to determine cleanup levels pursuant to this Paragraph shall be performed as specified in the following references or the most recent version of these references: Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods, November 1990, U.S. Environmental Protection Agency Publication number SW-846 and Guidelines for Addressing Fuel Leaks, D.M. Eisenberg and others, 1985, California Regional Water Quality Control Board, San Francisco Bay Region.

Table 1

SITE CHARACTERISTICS EVALUATION

Characteristic	Condition	Rating	Score
1) Predominant grain size as classified in accordance with the Unified Soil Classification System or the U.S. Department of Agriculture Soil Classification System	Gravel	150	
	Sand	100	
	Silt	50	
	Clay	0	

2) Are preferential pathways for contaminant movement such as quartz veins, coarse-grained sediments, fractures and weathered igneous intrusions present in or below the contaminated soil?	Present and intersecting seasonal high water table	10
	Present but not intersecting seasonal high water table	5
	None Present	0
3) Distance between the contaminated/non-contaminated soil interference and the seasonal high water table	5-10 feet	20
	>10-40 feet	10
	>40 feet	0
4) Is the top of bedrock or transmissive indurated sediments located above seasonal high water table?	Yes	20
	No	0
5) Are artificial conduits present within the zone of contamination?	Present and intersecting seasonal high water table	150
	Present but not intersecting seasonal high water table	10
	Not Present	0
Total Site Characteristics Score		_____

Table 2

CLEANUP LEVEL DETERMINATION

Initial Cleanup Level

Final Cleanup Level

EPA Method 8015/5030 for Low Boiling Point Hydrocarbons such as Gasoline, Aviation Fuels, Gasohol

Total Site Characteristics Score	Initial Cleanup Level (mg/kg)	TPH	Select Site Code*	Final Cleanup Level
>150	<10		Code A	
121 - 150	20		(Multiply initial cleanup level by 1)	1 x ____ = ____mg/kg
91 - 120	40		Code B	
61 - 90	60		(Multiply initial cleanup level by 2)	2 x ____ = ____mg/kg
31 - 60	80		Code C	
0 - 30	100		(Multiply initial cleanup level by 3)	3 x ____ = ____mg/kg

EPA Method 8015/3550 for Medium and High Boiling Point Hydrocarbons such as Kerosene, Diesel, Varsol, Mineral Spirits, Naptha

Total Site	Initial Cleanup	Select Site	Final Cleanup
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Characteristics Score	Level (mg/kg)	TPH
>150	<40	
121 - 150	80	
91 - 120	160	
61 - 90	240	
31 - 60	320	
0 - 30	400	

Code*	Level
Code A (Multiply initial cleanup level by 1)	1 x ____ = ____mg/kg
Code B (Multiply initial cleanup level by 2)	2 x ____ = ____mg/kg
Code C (Multiply initial cleanup level by 3)	3 x ____ = ____mg/kg

EPA Method 9071 for Heavy Fuels  
such as Fuel Oil (#4,#5,#6), Motor Oil, Hydraulic Fluid, Waste Oil

Total Site Characteristics Score	Initial Cleanup Level (mg/kg)	TPH
>150	<250	
121 - 150	400	
91 - 120	550	
61 - 90	700	
31 - 60	850	
0 - 30	1000	

Select Site Code*	Final Cleanup Level
Code A (Multiply initial cleanup level by 1)	1 x ____ = ____mg/kg
Code B (Multiply initial cleanup level by 2)	2 x ____ = ____mg/kg
Code C (Multiply initial cleanup level by 3)	3 x ____ = ____mg/kg

See Site Code Description, Table 3

TPH – Total Petroleum Hydrocarbons  
mg/kg – milligram per kilogram

Table 3

**SITE CODE DESCRIPTIONS**

Code-A Site meets both of the following criteria:

1. Water supply well(s) are within 1500 feet of the release.
2. Public water supply is not available for connecting water supply well users.

Code-B Site meets both of the following criteria:

1. Water supply well(s) are within 1500 feet of the release.
2. Public water supply is available for connecting water supply well users, however, water supply wells are still being used.

Code-C Site meets the following criterion:

1. No known water supply well(s) are within 1500 feet of the release.

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

## **SECTION .0500 – RISK-BASED ASSESSMENT AND CORRECTIVE ACTION FOR PETROLEUM RELEASES FROM ABOVEGROUND STORAGE TANKS AND SOURCES**

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

- (a) The purpose of this Section is to establish procedures for risk-based assessment and corrective action sufficient to:
- (1) protect human health and the environment;
  - (2) abate and control contamination of the waters of the State as deemed necessary to protect human health and the environment;
  - (3) permit management of the State's groundwaters to protect their designated current usage and potential future uses;
  - (4) provide for anticipated future uses of the State's groundwater;
  - (5) recognize the diversity of contaminants, the State's geology, and the characteristics of each individual site; and
  - (6) accomplish these goals in a cost-efficient manner to assure the best use of the limited resources available to address groundwater pollution within the State.
- (b) The applicable portions of Section .0100 not specifically excluded apply to this Section.

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

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

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

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

*History Note:* Authority G.S. 143-212(4); 143-215.3(a)(1); 143-215.77; 143B-282; 143-215.84; 143-215.104AA; Eff. March 1, 2016.

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

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

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

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

A responsible party shall:

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

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

- (4) conduct initial site assessment, assembling information about the site and the nature of the release, including the following:
  - (a) site history and site characterization, including data on nature and estimated quantity of release and data from available sources and site investigations concerning surrounding populations, water quality, use, and approximate locations of wells, surface water bodies, and subsurface structures potentially effected by the release, subsurface soil conditions, locations of subsurface utilities, climatological conditions, and landuse;
  - (b) results of free product investigations and free product removal, if applicable;
  - (c) results of groundwater and surface water investigations, if applicable;
  - (d) summary of initial response and abatement actions; and submit this information in the report required under Item (5) of this Rule; and
- (5) submit as required in Item (2) of this Rule, within 90 days of the discovery of the discharge or release an initial assessment and abatement report containing the site characterization information required in Item (4) of this Rule; soil assessment information sufficient to show that remaining unsaturated soil in the side walls

and at the base of the excavation does not contain contaminant levels which exceed either the "soil-to-groundwater" or the residential maximum soil contaminant concentrations established by the Department pursuant to Rule .0511 of this Section, whichever is lower; and documentation to show that neither bedrock nor groundwater was encountered in the excavation (or if groundwater was encountered, that contaminant concentrations in groundwater were equal to or less than the groundwater quality standards established in Rule .0202 of this Subchapter). If such showing is made, the discharge or release shall be classified as low risk by the Department.

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

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

If the required showing cannot be made by the responsible party under Rule .0504 of this Section, the responsible party shall submit within 120 days of the discovery of the discharge or release, a report as required in Rule .0504 of this Section, containing information needed by the Department to classify the level of risk to human health and the environment posed by a discharge or release under Rule .0506 of this Section. The responsible party may request an extension prior to the deadline that demonstrates to the Department that the extension would not increase the risk posed by the release. Such report shall include the following:

- (1) a location map, based on a USGS topographic map, showing the radius of 1500 feet from the source area of a confirmed release or discharge and depicting all water supply wells, surface waters, and designated "wellhead protection areas" as defined in 42 U.S.C. 300h-7(e) within the 1500-foot radius. 42 U.S.C. 300h-7(e), is incorporated by reference including subsequent amendments and editions. Copies may be obtained at no cost from the U.S. Government Bookstore's website at <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 Environmental Quality, UST Section, 217 West Jones Street, Raleigh, NC 27603. For purposes of this Section, "source area" means point of release or discharge from the non-UST petroleum source, or if the point of release cannot be determined precisely, "source area" means the area of highest contaminant concentrations;
- (2) a determination of whether the source area of the discharge or release is within a designated "wellhead protection area" as defined in 42 U.S.C. 300h-7(e);
- (3) if the discharge or release is in the Coastal Plain physiographic region as designated on a map entitled "Geology of North Carolina" published by the Department in 1985, a determination of whether the source area of the discharge or release is located in an area in which there is recharge to an unconfined or semi-confined deeper aquifer that is being used or may be used as a source of drinking water;
- (4) a determination of whether vapors from the discharge or release pose a threat of explosion due to the accumulation of vapors in a confined space; pose a risk to public health from exposure; or pose any other serious threat to public health, public safety, or the environment;
- (5) scaled site map(s) showing the location of the following that are on or adjacent to the property where the source is located:
  - (a) site boundaries;
  - (b) roads;
  - (c) buildings;
  - (d) basements;
  - (e) floor and storm drains;
  - (f) subsurface utilities;
  - (g) septic tanks and leach fields;
  - (h) underground and aboveground storage tank systems;
  - (i) monitoring wells;
  - (j) water supply wells;
  - (k) surface water bodies and other drainage features;
  - (l) borings; and
  - (k) the sampling points;
- (6) the results from a limited site assessment that shall include the following actions:
  - (a) determine the presence, the lateral and vertical extent, and the maximum concentration levels of soil and, if possible, groundwater contamination and free product accumulations;

- (b) install monitoring wells constructed in accordance with 15A NCAC 02C .0108, within the area of maximum soil or groundwater contamination to determine the groundwater flow direction and maximum concentrations of dissolved groundwater contaminants or accumulations of free product. During well construction, the responsible party shall collect and analyze soil samples that represent the suspected highest contaminant-level locations by exhibiting visible contamination or elevated levels of volatile organic compounds, from successive locations at five-foot depth intervals in the boreholes of each monitoring well within the unsaturated zone; collect potentiometric data from each monitoring well; and collect and analyze groundwater or measure the amount of free product, if present, in each monitoring well;
- (7) the availability of public water supplies and the identification of properties served by the public water supplies within 1500 feet of the source area of a confirmed discharge or release;
- (8) the land use, including zoning if applicable, within 1500 feet of the source area of a confirmed discharge or release;
- (9) a discussion of site specific conditions or possible actions that may result in lowering the risk classification assigned to the release. Such discussion shall be based on information known or required to be obtained under this Item; and
- (10) names and current addresses of all responsible parties for all petroleum sources for which a discharge or release is confirmed, the owner(s) of the land upon which such petroleum sources are located, and all potentially affected real property owners. Documentation of ownership of ASTs or other sources and of the property upon which a source is located shall be provided. When considering a request from a responsible party for additional time to submit the report, the Department shall consider the following:
  - (a) the extent to which the request for additional time is due to factors outside of the control of the responsible party;
  - (b) the previous history of the person submitting the report in complying with deadlines established under the Commission's rules;
  - (c) the technical complications associated with assessing the extent of contamination at the site or identifying potential receptors; and
  - (d) the necessity for action to eliminate an imminent threat to public health or the environment.

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

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

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

- (1) "High risk" means that:
  - (a) a water supply well, including one used for non-drinking purposes, has been contaminated by the release or discharge;
  - (b) a water supply well used for drinking water is located within 1000 feet of the source area of a confirmed discharge or release;
  - (c) a water supply well not used for drinking water is located within 250 feet of the source area of a confirmed discharge or release;
  - (d) the groundwater within 500 feet of the source area of a confirmed discharge or release has the potential for future use in that there is no source of water supply other than the groundwater;
  - (e) the vapors from the discharge or release pose a serious threat of explosion due to accumulation of the vapors in a confined space or pose a risk to public health from exposure; or
  - (f) the discharge or release poses an imminent danger to public health, public safety, or the environment.
- (2) "Intermediate risk" means that:
  - (a) surface water is located within 500 feet of the source area of a confirmed discharge or release and the maximum groundwater contaminant concentration exceeds the applicable surface water quality standards and criteria found in 15A NCAC 02B .0200 by a factor of 10;
  - (b) in the Coastal Plain physiographic region as designated on a map entitled "Geology of North Carolina" published by the Department in 1985, the source area of a confirmed discharge or release is located in an area in which there is recharge to an unconfined or semi-confined deeper

- aquifer that the Department determines is being used or may be used as a source of drinking water;
- (c) the source area of a confirmed discharge or release is within a designated wellhead protection area, as defined in 42 U.S.C. 300h-7(e);
  - (d) the levels of groundwater contamination for any contaminant except ethylene dibromide, benzene, and alkane and aromatic carbon fraction classes exceed 50 percent of the solubility of the contaminant at 25 degrees Celsius or 1,000 times the groundwater standard or interim standard established in Rule .0202 of this Subchapter, whichever is lower; or
  - (e) the levels of groundwater contamination for ethylene dibromide and benzene exceed 1,000 times the federal drinking water standard as referenced in 15A NCAC 18C .1518 is hereby incorporated by reference including subsequent amendments and editions and is available free of charge at <http://reports.oah.state.nc.us/ncac/title 15a - environmental quality/chapter 18 - environmental health/subchapter c/15a ncac 18c .1518.pdf>.
- (3) "Low risk" means that:
- (a) the risk posed does not fall within the high or intermediate risk categories; or
  - (b) based on review of site-specific information, limited assessment, or interim corrective actions, the Department determines that the discharge or release poses no significant risk to human health or the environment.

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

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

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

- (a) The Department may reclassify the risk posed by a release if warranted by further information concerning the potential exposure of receptors to the discharge or release or upon receipt of new information concerning changed conditions at the site. After initial classification of the discharge or release, the Department may require limited assessment, interim corrective action, or other actions that the Department believes may result in a lower risk classification. It shall be a continuing obligation of each responsible party to notify the Department of any changes that may affect the level of risk assigned to a discharge or release by the Department if the change is known or should be known by the responsible party. Such changes may include changes in zoning of real property, use of real property, or the use of groundwater that has been contaminated or is expected to be contaminated by the discharge or release.
- (b) Remediation of sites with off-site migration shall be subject to the provisions of G.S. 143-215.104AA.
- (c) If the risk posed by a discharge or release is determined by the Department to be high risk, the responsible party shall comply with the assessment and cleanup requirements of Rule .0106(c), (g), and (h) of this Subchapter. The goal of any required corrective action for groundwater contamination shall be restoration to the level of the groundwater standards set forth in Rule .0202 of this Subchapter, or as closely thereto as is economically and technologically feasible as determined by the Department. In any corrective action plan submitted pursuant to this Paragraph, natural attenuation may be used when the benefits of its use shall not increase the risk to the environment and human health as determined by the Department. If the responsible party demonstrates that natural attenuation prevents the further migration of the plume, the Department may approve a groundwater monitoring plan.
- (d) If the risk posed by a discharge or release is determined by the Department to be an intermediate risk, the responsible party shall comply with the assessment requirements of Rule .0106(c) and (g) of this Subchapter. As part of the comprehensive site assessment, the responsible party shall evaluate, based on site specific conditions, whether the release poses a significant risk to human health or the environment. If the Department determines, based on the site-specific conditions, that the discharge or release does not pose a significant threat to human health or the environment, the site shall be reclassified as a low risk site. If the site is not reclassified, the responsible party shall, at the direction of the Department, submit a groundwater monitoring plan or a corrective action plan, or a combination thereof, meeting the cleanup standards of this Paragraph and containing the information required in Rule .0106(h) of this Subchapter. Discharges or releases that are classified as intermediate risk shall be remediated, at a minimum, to a cleanup level of 50 percent of the solubility of the contaminant at 25 degrees Celsius or 1,000 times the groundwater standard or interim standard established in Rule .0202 of this Subchapter, whichever is lower for any groundwater contaminant except ethylene dibromide, benzene, and alkane and aromatic carbon fraction classes. Ethylene dibromide and benzene shall be remediated to a cleanup level of 1,000 times the federal drinking water standard as referenced in 15A NCAC 18C .1518 is hereby incorporated by reference including



subsequent amendments and editions and is available free of charge at <http://reports.oah.state.nc.us/ncac/title 15a - environmental quality/chapter 18 - environmental health/subchapter c/15a ncac 18c .1518.pdf>. Additionally, if a corrective action plan or groundwater monitoring plan is required under this Paragraph, the responsible party shall demonstrate that the groundwater cleanup levels are sufficient to prevent a violation of:

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

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

(e) If the risk posed by a discharge or release is determined by the Department to be a low risk, the Department shall notify the responsible party that no cleanup, no further cleanup, or no further action will be required by the Department, unless the Department later determines that the discharge or release poses an unacceptable risk or a potentially unacceptable risk to human health or the environment. No notification shall be issued pursuant to this Paragraph, however, until the responsible party has completed soil remediation pursuant to Rule .0508 of this Section or as closely thereto as economically or technologically feasible as determined by the Department; has submitted proof of public notification and has recorded any land-use restriction(s), if required; and paid any applicable statutorily authorized fees. The issuance by the Department of a notification under this Paragraph shall not affect any private right of action by any party that may be affected by the contamination.

*History Note:* Authority G.S. 143-215.3(a)(1); 143B-282; 143-215.84; 143-215.104AA;  
Eff. March 1, 2016;  
Amended Eff. March 1, 2017.

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

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

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

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

#### **15A NCAC 02L .0509 NOTIFICATION REQUIREMENTS**

(a) A responsible party who submits a corrective action plan that proposes natural attenuation or to cleanup groundwater contamination to a standard other than a standard or interim standard established in Rule .0202 of this Subchapter, or to

cleanup soil other than to the standard for residential use or soil-to-groundwater contaminant concentration established pursuant to this Section, whichever is lowest, shall give notice to:

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

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

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

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

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

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

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

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

*History Note:* Authority G.S. 143-215.3(a)(1); 143B-282;  
Eff. March 1, 2016.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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