



January 12, 2022 Groundwater & Waste Management Committee

*Readoption and Amendments to 15A NCAC 02P
Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund*

Wayne Randolph, CPM, Underground Storage Tank Section, Division of Waste Management



Overview

- The Division of Waste Management is requesting approval from the GWWMC to proceed to the EMC for public notice and hearing for amendments to 15A NCAC 02P “Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund” and the Regulatory Impact Analysis.
- These rules are required to be readopted pursuant to G.S. 150B-21.3A by the deadline established by the Rules Review Commission of January 31, 2023.
- The changes to the rules have been forwarded to the North Carolina Petroleum and Convenience Marketers for distribution for comment to their members.

Impact Summary

- The Office of State Budget and Management (OSBM) approved the Regulatory Impact Analysis (RIA), included in Attachment B, on December 9, 2021.
- The proposed amendments are not expected to impact state or local governments, private households, or public health or the environment, with the exception of providing a benefit through clarification to applicants and to state employees, and the benefit of adding an informal appeal process.
- The proposed amendments do not cause a substantial economic impact.

Summary of Rule Changes

- The proposed amendments include the following technical changes:
 - updates to information such as Department name, addresses, websites, and references;
 - clarification of vague or unclear language;
 - corrections and typographical edits;
 - citation updates;
 - updates to be consistent with statutory language; and
 - removal of redundant or unnecessary language.
- Amendments are also proposed to remove references to the noncommercial leaking petroleum UST cleanup fund which was phased out, to be consistent with the changes made to G.S. 143-215.94 under [S.L. 2015-241, Section 14.16A.](#)

Summary of Rule Changes

- Rules .0101 and .0103 make technical updates and provide clarification.
- Rule .0102 is proposed for repeal because it is no longer necessary, since copies of the rules can be found on the website of the Office of Administrative Hearings or the Department's website.
- Rules .0201 and .0202 make technical updates, provide clarification, remove references to noncommercial USTs and remove some definitions that are no longer necessary.
- Rule .0301 is proposed for amendment to remove language regarding fees and payment; and replace the text with a reference to the statute where these requirements are outlined.
- Rule .0302 is proposed for amendment to be consistent with current practice under the existing rules, including the documentation that must be submitted in a notification for acquiring ownership of a tank.

Summary of Rule Changes

- Rule .0401 is proposed for amendment to remove references to requirements of the noncommercial tank fund and clarify existing procedures for determination of eligibility, and the documentation required to be submitted in an application.
- Rules .0402 - .0406 are proposed for amendment to
 - make technical corrections and updates,
 - make the rules consistent with statute requirements,
 - clarify references to the noncommercial fund,
 - clarify existing procedures for determination of eligibility and requests for reimbursement, and
 - clarify the documentation required to be submitted in an application for eligibility and request for reimbursement.
- Rule .0407 is proposed for amendment to provide the applicant with an informal appeal process for Departmental decisions made under these rules.

Proposed Rulemaking Schedule

Action	Date
GWWMC - Approval of Rule Text to go to EMC	January 12, 2022
EMC - Approval of Rule and fiscal note for public comment	March 10, 2022
60-day Public Comment and Hearing	April 18, 2022 – June 17, 2022
Earliest Date for Public Hearing	May 3, 2022
EMC - Approve Hearing Officer's Report and Fiscal Note, Adopt Rules	July 14, 2022*
RRC – Final Approval of Rules	August 18, 2022
Proposed effective date	September 1, 2022

* Readoption deadline is January 31, 2023

Requested Action

The Division is requesting approval to proceed to the Environmental Management Commission for public notice and hearing on amendments to 15A NCAC 02P “Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund” and the Regulatory Impact Analysis.

QUESTIONS?

Wayne Randolph, CPM
Trust Fund Branch Head
Underground Storage Tank Section
Division of Waste Management
Wayne.Randolph@ncdenr.gov / (919) 323-7443

Department of Environmental Quality

