

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

(a) Upon a discharge or release of petroleum from a commercial underground storage tank the responsible party shall:

- (1) take action to prevent all further discharge or release of petroleum from the underground storage tank; identify and mitigate all fire, explosion, and vapor hazards; remove any free product; and comply with the requirements of 15A NCAC 02N .0601 through .0604, .0701 through .0703, and .0705 within 24 hours of discovery;
- (2) incorporate the requirements of 15A NCAC 02N .0704 into the submittal required under Subparagraph (3) of this Paragraph or the limited site assessment report required under Rule .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 Rule .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) Upon a discharge or release of petroleum from a noncommercial underground storage tank the responsible party shall:

- (1) take necessary actions to protect public health, safety, and welfare and the environment, including actions to prevent all further discharge or release of petroleum from the noncommercial underground storage tank; identify and mitigate all fire, explosion, and vapor hazards; and 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 discharge or release of petroleum from a noncommercial underground storage tank that no cleanup, no further cleanup, or no further action shall be required without additional soil remediation pursuant to Rule .0408 of this Section if the site is determined by the Department to be low risk. This classification is 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; Readopted Eff. June 1, 2019.*