

#### **15A NCAC 02P .0407 APPEAL RIGHTS**

(a) The Director, Underground Storage Tank Section Chief, or Trust Fund Branch Head of the Division of Waste Management shall make the agency decision on a written application for eligibility for reimbursement from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund. The Director, Underground Storage Tank Section Chief, or Trust Fund Branch Head shall make the agency decision on any written claim for reimbursement once an applicant has been granted eligibility.

(b) An owner, operator, or landowner who has not received a written notification of decision of eligibility to or for reimbursement from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund within 90 days of submittal of a written application in accordance with the rules of this Subchapter may elect to consider the application to have been denied and may file an appeal in accordance with G.S. 143-215.94E(e2).

(c) An owner, operator, or landowner who has received a written notification of eligibility to or for reimbursement from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund after submittal of a written application in accordance with the rules of this Subchapter and disagrees with the notification may elect to file an informal appeal supplying additional information. Following review of the additional information, the Director, Underground Storage Tank Section Chief, or Trust Fund Branch Head shall issue a written agency decision. If the written decision by the Director, Underground Storage Tank Section Chief, or Trust Fund Branch Head does not change the original decision of eligibility to or for reimbursement from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund, the Department shall notify the owner, operator, or landowner of the right to petition for a contested case in the Office of Administrative Hearings in accordance with G.S. 150B-23.

(d) An owner, operator, or landowner who has received a written notification of eligibility to or for reimbursement from the Commercial Leaking Petroleum Underground Storage Tank Cleanup Fund after submittal of a written application in accordance with the rules of this Subchapter and disagrees with the notification may elect to file a petition for a contested case in the Office of Administrative Hearings in accordance with G.S. 150B-23 without providing any additional information.

*History Note: Authority G.S. 143-215.3; 143-215.94B; 143-215.94E; 143-215.94L; 143-215.94T; 143B-282; 150B-23;  
Eff. February 1, 1993;  
Amended Eff. September 1, 1993;  
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