

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0309

**DEADLINE FOR RECEIPT: February 14, 2025**

***PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.***

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

*Page 1, Line 4: Consider: "Classifications assigned to the waters within the Yadkin-Pee Dee River Basin pursuant to Rule .0101 of this Subchapter are set forth ..."*

*Page 1, Lines 26-27: Consider: Unnamed streams entering Virginia or South Carolina are classified as "C".*

*Pages 1-4, Paragraphs (c)-(q): Explain why this language is reasonably necessary pursuant to G.S. 150b-21.9(a)(3). As written, it is a recitation of history rather than a "rule" as defined in G.S. 150B-2(8)(a).*

*Page 4-5, Paragraph (r): Explain why this language is reasonably necessary pursuant to G.S. 150b-21.9(a)(3). As written, it is a recitation of history rather than a "rule" as defined in G.S. 150B-2(8)(a).*

*Page 4, Lines 20-22: These lines are unclear and should be re-written. Paragraphs (20)(c) and 48(c) are definitions and cannot be "used" to amend a schedule. Consider whether "which defined the critical..." is even necessary.*

*Page 4, Line 28: I believe you want a comma after "portions."*

*Page 4, Line 36: I believe you want a comma after "portions."*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee  
Commission Counsel

Date submitted to agency: February 7, 2025

1 **15A NCAC 02B .0309 is amended as published in 39:04 NCR 163 as follows:**

2  
3 **15A NCAC 02B .0309 YADKIN-PEE DEE RIVER BASIN**

4 (a) Classifications assigned to the waters within the Yadkin-Pee Dee River Basin are set forth in the Yadkin River  
5 Basin Classification Schedule, which may be inspected at the following places:

6 (1) the Internet at [https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-](https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification)  
7 [standards/river-basin-classification](https://deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/river-basin-classification); and

8 (2) the following offices of the North Carolina Department of Environmental Quality:

9 (A) Mooresville Regional Office

10 610 East Center Avenue, Suite 301

11 Mooresville, North Carolina;

12 (B) Winston-Salem Regional Office

13 450 West Hanes Mill Road

14 Winston-Salem, North Carolina;

15 (C) Fayetteville Regional Office

16 225 Green Street

17 Systel Building Suite 714

18 Fayetteville, North Carolina;

19 (D) Asheville Regional Office

20 2090 US Highway 70

21 Swannanoa, North Carolina; and

22 (E) Division of Water Resources

23 Central Office

24 512 North Salisbury Street

25 Raleigh, North Carolina.

26 (b) Unnamed streams entering Virginia are classified "C," and such streams entering South Carolina are classified  
27 "C".

28 (c) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective:

29 (1) February 12, 1979;

30 (2) March 1, 1983;

31 (3) August 1, 1985;

32 (4) February 1, 1986;

33 (5) October 1, 1988;

34 (6) March 1, 1989;

35 (7) January 1, 1990;

36 (8) August 1, 1990;

37 (9) January 1, 1992;

- (10) April 1, 1992;
- (11) August 3, 1992;
- (12) December 1, 1992;
- (13) April 1, 1993;
- (14) September 1, 1994;
- (15) August 1, 1995;
- (16) August 1, 1998;
- (17) April 1, 1999;
- (18) July 1, 2006;
- (19) September 1, 2006;
- (20) November 1, ~~2007~~2007; and
- (21) March 1, 2025.

(d) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective October 1, 1988 as follows:

- (1) Mitchell River [Index No. 12-62-(1)] from source to mouth of Christian Creek (North Fork Mitchell River) including all tributaries has been reclassified from Class B Tr to Class B Tr ORW.
- (2) Mitchell River [Index No. 12-62-(7)] from mouth of Christian Creek (North Fork Mitchell River) to Surry County SR 1315 including all tributaries has been classified from Class C Tr to C Tr ORW, except Christian Creek and Robertson Creek which will be reclassified from Class B Tr to Class B Tr ORW.
- (3) Mitchell River [Index No. 12-62-(12)] from Surry County SR 1315 to mouth of South Fork Mitchell River including all tributaries from Class C to Class C ORW.

(e) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective March 1, 1989 as follows: Elk Creek [Index Nos. 12-24-(1) and 12-24-(10)] and all tributary waters were reclassified from Class B-trout, Class C-trout and Class B to Class B-trout ORW, Class C-trout ORW and Class B ORW.

(f) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective January 1, 1990 as follows: Barnes Creek (Index No. 13-2-18) was reclassified from Class C to Class C ORW.

(g) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective January 1, 1992 as follows:

- (1) Little River [Index Nos. 13-25-(10) and 13-25-(19)] from Suggs Creek to Densons Creek has been reclassified from Classes WS-III and C to Classes WS-III HQW and C HQW.
- (2) Densons Creek [Index No. 13-25-20-(1)] from its source to Troy's Water Supply Intake including all tributaries has been reclassified from Class WS-III to Class WS-III HQW.
- (3) Bridgers Creek (Index No. 13-25-24) from its source to the Little River has been reclassified from Class C to Class C HQW.

(h) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective April 1, 1992 with the reclassification of the North Prong South Fork Mitchell River from Class C to Class C Trout.

(i) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These

waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

(j) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective December 1, 1992 as follows:

- (1) Pike Creek (Index No. 12-46-1-2) was reclassified from Class C Tr to Class C Tr HQW;
- (2) Basin Creek (Index No. 12-46-2-2) was reclassified from Class C Tr to Class C Tr ORW;
- (3) Bullhead Creek (Index No. 12-46-4-2) was reclassified from Class C Tr to Class C Tr ORW;
- (4) Rich Mountain Creek (Index No. 12-46-4-2-2) was reclassified from Class Tr to Class C Tr ORW;  
and
- (5) Widows Creek (Index No. 12-46-4-4) was reclassified from Class C Tr HQW to Class C Tr ORW.

(k) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective September 1, 1994 as follows:

- (1) Lanes Creek [Index Nos. 13-17-40-(1) and 13-17-40-(10.5)] from its source to the Marshville water supply dam including tributaries was reclassified from Classes WS-II and WS-II CA to Class WS-V.
- (2) The South Yadkin River [Index Nos. 12-108-(9.7) and 12-108-(15.5)] from Iredell County SR 1892 to a point 0.7 mile upstream of the mouth of Hunting Creek including associated tributaries was reclassified from Classes WS-V, C and WS-IV to Classes WS-V, WS-IV, C and WS-IV CA.
- (3) The Yadkin River [Index Nos. 12-(53) and 12-(71)] from a point 0.3 mile upstream of the mouth of Elkin Creek (River) to the Town of King water supply intake including associated tributaries was reclassified from Classes C and WS-IV to Classes WS-IV and WS-IV CA.
- (4) The Yadkin River [Index Nos. 12-(80.5), 12-(81.5) and 12-(84.5)] from the Town of King water supply intake to the Davie County water supply intake reclassified from Classes C, B, WS-IV and WS-V to Classes WS-IV, WS-IV B and WS-IV CA.

(l) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective August 1, 1995 as follows: Bear Creek [Index Nos. 12-108-18-(3), 12-108-18-(3.3)], Little Bear Creek (Index No. 12-108-18-2), and Blue Branch (Index No. 12-108-18-2-1) were reclassified from WS-II and WS-II CA (Critical Area) to C and WS-IV.

(m) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective August 1, 1998 with the revision to the primary classification for portions of the Yadkin River [Index No. 12-(45)] from Class WS-IV to WS-V, Yadkin River [Index No. 12-(67.5)] from Class WS-IV to Class C, Yadkin River [Index Nos. 12-(93.5) and 12-(98.5)] from Class WS-IV to Class WS-V, South Yadkin River [Index No. 12-108-(12.5)] from Class WS-IV to Class WS-V, and South Yadkin River [Index Nos. 12-108-(19.5) and 12-108-(22)] from Class WS-IV to Class C.

(n) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective April 1, 1999 with the reclassification of a portion of the Yadkin River [Index No. 12-(80.5)] from WS-IV CA to WS-IV. A portion of the Yadkin River 0.5 mile upstream of Bashavia Creek was reclassified from WS-IV to WS-IV CA. Bashavia Creek

[Index Nos. 12-81-(0.5) and 12-81-(2)] was reclassified from WS-IV and WS-IV CA to Class C. Tributaries to Bashavia Creek were also reclassified to Class C. Portions of the Yadkin River [Index Nos. 12-(25.5) and 12-(27)] were reclassified from WS-IV to Class C and from WS-IV & B to Class B. Tributaries were reclassified from Class WS-IV to Class C. Supplemental classifications were not changed.

(o) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective July 1, 2006 with the reclassification of a portion of the Uwharrie River. More specifically, Index No. 13-2-(25), Index No. 13-2-(17.5), and a portion of Index No. 13-2-(1.5) was reclassified from Class WS-IV CA, WS-IV, and C, to Class WS-IV B CA, WS-IV B, and B, respectively.

(p) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective September 1, 2006 with the reclassification of a segment of the Yadkin River [portion of Index No. 12-(53)] from a point 0.3 mile upstream of the Town of Elkin proposed water supply intake to the Town of Elkin proposed water supply intake from C to WS-IV CA. The Town of Elkin proposed water supply intake is to be placed on the Yadkin River at a point directly above the mouth of Elkin Creek.

(q) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective November 1, 2007 with the reclassifications as listed below, and the North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of these UWLs.

(1) Black Ankle Bog near Suggs Creek [Index No. 13-25-12] was reclassified to Class WL UWL.

(2) Pilot Mountain Floodplain Pool near Horne Creek [Index No. 12-75] was reclassified to Class WL UWL.

(r) The Yadkin-Pee Dee River Basin Classification Schedule was amended effective March 1, 2025, using Paragraphs (20)(c) and (48)(c) of Rule .0202 of this Section, which defined the critical and protected areas a different distance from the intake as adopted by the Commission during the reclassification process as follows:

(1) a portion of the Yadkin River Index No. 12-(108.5) from the mouth of the South Yadkin River to a point 125 feet downstream of its confluence with Deals Creek, a portion of Deals Creek Index No. 12-109 from a point 0.7 miles upstream of the mouth of the Yadkin River to the Yadkin River, and a portion of the South Yadkin River Index No. 12-108-(19.5) from a point 0.2 miles upstream of the mouth of the Yadkin River to the Yadkin River, and the watersheds associated with these waterbody portions were reclassified from Class C to Class WS-IV CA;

(2) a portion of the Yadkin River Index No. 12-(107.5) from a point 0.7 miles upstream of the mouth of the South Yadkin River to a point 0.2 miles upstream of the mouth of the South Yadkin River, a portion of Deals Creek Index No. 12-109 from its source to a point 0.7 miles upstream of the mouth of the Yadkin River, a portion of Second Creek Index No. 12-108-21 from Highway 70 to the mouth of the South Yadkin River, a portion of Fourth Creek Index No. 12-108-20 from NC 801 to the mouth of the South Yadkin River, a portion of South Yadkin River Index No. 12-108-(19.5) from NC 801 to a point 0.2 miles upstream of its confluence with the Yadkin River, and watersheds associated with these waterbody portions were reclassified from Class C to Class WS-IV; and

1        (3) a portion of the Yadkin River Index No. 12-101.5 from a point 1.0 mile upstream of the mouth of  
2        Dutchman Creek to Dutchman Creek and its watershed were reclassified from Class WS-IV to  
3        Class WS-V.  
4

5        *History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);*  
6        *Eff. February 1, 1976;*  
7        *Amended Eff. November 1, 2007; September 1, 2006; July 1, 2006; April 1, 1999; August 1, 1998;*  
8        *August 1, 1995; September 1, 1994; April 1, 1993; December 1, 1992;*  
9        *Readopted Eff. November 1, ~~2019-2019~~;*  
10       *Amended Eff. March 1, 2025.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .0410

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In reviewing this Rule, the staff recommends the following changes be made:

*Line 1: Explain the authority of the Commission to establish the “national” primary ambient air quality standards for PM2.5. This term is only used in this Rule.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

William W. Peaslee  
Commission Counsel  
Date submitted to agency: February 7, 2025

1 15A NCAC 02D .0410 is amended as published in 39:05 NCR 211 as follows:

2  
3 **15A NCAC 02D .0410 PM2.5 PARTICULATE MATTER**

4 (a) The national primary ambient air quality standards for PM2.5 shall be ~~12.0~~9.0 micrograms per cubic meter ( $\mu\text{g}/\text{m}^3$ )  
5 annual arithmetic mean concentration and  $35 \mu\text{g}/\text{m}^3$  24-hour average concentration measured in the ambient air as  
6 PM2.5 (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) by either:

7 (1) A reference method based on appendix L to 40 CFR Part 50 and designated in accordance with 40  
8 CFR Part 53; or

9 (2) An equivalent method designated in accordance with 40 CFR Part 53.

10 (b) The primary annual PM2.5 standard shall be deemed met when the annual arithmetic mean concentration, as  
11 determined in accordance with Appendix N of 40 CFR Part 50, is less than or equal to ~~12.0~~9.0  $\mu\text{g}/\text{m}^3$ .

12 (c) The primary 24-hour PM2.5 standard shall be deemed met when the 98<sup>th</sup> percentile 24-hour concentration, as  
13 determined in accordance with Appendix N of 40 CFR Part 50, is less than or equal to  $35 \mu\text{g}/\text{m}^3$ .

14  
15 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(3);*

16 *Eff. April 1, 1999;*

17 *Amended Eff. September 1, 2015; January 1, 2010;*

18 *Readopted Eff. January 1, ~~2018~~, 2018;*

19 *Amended Eff. March 1, 2025*