

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0315

DEADLINE FOR RECEIPT: Thursday, April 6, 2023

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:

Throughout the Rule there are repetitive stylistic errors. They are:

- *All dates need to have a comma after the year if found within a sentence. For instance, this Rule amendment shall come before the RRC on April 20, 2023, for review. The numerous dates all need to be fixed.*
- *“All” is used many times throughout and is unnecessary. Please remove from: Paragraphs, Subparagraphs, or Parts: (f), (l), (n)(2), (p)(1) & (2), (s), and (bb).*
- *Each list should end with semicolons and “; and”. Also, unless the item in the list is a proper noun, the first letter should not be capitalized. Please fix in: (b)(28), (h), (k), (n), (o), (p), and (t).*
- *Parenthesis should be avoided. Commas can be used. Please fix in: (o)(2), (p)(2), (q)(1), (s), (t)(3), (v), (w), (z), (aa), and (cc)(3).*
- *The use of improper, unclear, ambiguous language should be avoided. Avoid words or phrases like “thence” in (p)(1); “in some cases” or “in other cases” in (s); “appropriate” in (s); “respectively” in (bb); and “approximately” in (cc)(2) and (3), and (dd)(2).*

In Parts (a)(2)(A), (B), (C), and (D), addresses should use the “NC” abbreviation for North Carolina and should include the ZIP code. Also, in Part (B), should it be Washington Street, not Washington Square Mall (see Google Maps)? In Part (D), did DWR not move to the 217 Jones Street address along with the rest of DEQ?

What is the purpose of Paragraph (b) if the information contained in the subparagraphs is also in the referenced paragraphs found later in the Rule?

In Paragraph (c), there is an extra article. It currently reads: “with the a total”.

In Paragraph (i), should the “d” in “Falls dam” be capitalized? Is this the same dam that is referenced in (m)? In (m), it uses “Falls Lake dam”. Should that “d” be capitalized also?

Subparagraphs (o)(1), (p)(2), (cc)(1)-(3), and (dd)(1)-(2) do not read like other similar items. Please change to keep the language consistent.

Lawrence R. Duke
Commission Counsel

Date submitted to agency: March 30, 2023

In Paragraph (q), please change “with the reclassification of the following waters as described in (1) through (3) of this Paragraph” to “as follows:” so that it is like other paragraphs. Also, in the Subparagraphs of (q), insert “has been reclassified”.

In Paragraph (v), is there a better or more exact way to clearly and unambiguously describe “an unnamed tributary”?

Please retype the rule accordingly and resubmit it to our office electronically.

1 **15A NCAC 02B .0315 has been amended with changes as published in 37:06 NCR 444-448 as follows:**

2
3 **15A NCAC 02B .0315 NEUSE RIVER BASIN**

4 (a) Classifications assigned to the waters within the Neuse River Basin are set forth in the Neuse River Basin
5 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) Raleigh Regional Office

10 3800 Barrett Drive

11 Raleigh, North Carolina;

12 (B) Washington Regional Office

13 943 Washington Square Mall

14 Washington, North Carolina;

15 (C) Wilmington Regional Office

16 127 Cardinal Drive Extension

17 Wilmington, North Carolina; and

18 (D) Division of Water Resources

19 Central Office

20 512 North Salisbury Street

21 Raleigh, North Carolina.

22 (b) The Neuse River Basin Classification Schedule was amended effective:

23 (1) March 1, 1977 see Paragraph (c) of this Rule;

24 (2) December 13, 1979 see Paragraph (d) of this Rule;

25 (3) September 14, 1980 see Paragraph (e) of this Rule;

26 (4) August 9, 1981 see Paragraph (f) of this Rule;

27 (5) January 1, 1982 see Paragraph (g) of this Rule;

28 (6) April 1, 1982 see Paragraph (h) of this Rule;

29 (7) December 1, 1983 see Paragraph (i) of this Rule;

30 (8) January 1, 1985 see Paragraph (j) of this Rule;

31 (9) August 1, 1985 see Paragraph (k) of this Rule;

32 (10) February 1, 1986 see Paragraph (l) of this Rule;

33 (11) May 1, 1988 see Paragraph (m) of this Rule;

34 (12) July 1, 1988 see Paragraph (n) of this Rule;

35 (13) October 1, 1988 see Paragraph (o) of this Rule;

36 (14) January 1, 1990 see Paragraph (p) of this Rule;

37 (15) August 1, 1990;

- 1 (16) December 1, 1990 see Paragraph (q) of this Rule;
 2 (17) July 1, 1991 see Paragraph (r) of this Rule;
 3 (18) August 3, 1992;
 4 (19) April 1, 1994 see Paragraph (t) of this Rule;
 5 (20) July 1, 1996 see Paragraph (u) of this Rule;
 6 (21) September 1, 1996 see Paragraph (v) of this Rule;
 7 (22) April 1, 1997 see Paragraph (w) of this Rule;
 8 (23) August 1, 1998 see Paragraph (x) of this Rule;
 9 (24) August 1, 2002 see Paragraph (y) of this Rule;
 10 (25) July 1, 2004 see Paragraph (z) of this Rule;
 11 (26) November 1, 2007 see Paragraph (aa) of this Rule;
 12 (27) January 15, 2011 see Paragraph (bb) of this Rule; ~~and~~
 13 (28) July 1, 2012 see Paragraph (cc) of this ~~Rule~~; Rule and
 14 (29) May 1, 2023 see Paragraph (dd) of this Rule.

15 (c) The Neuse River Basin Classification Schedule was amended effective March 1, 1977 with the a total of 179
 16 streams in the Neuse River Basin reclassified from Class D to Class C.

17 (d) The Neuse River Basin Classification Schedule was amended effective December 13, 1979 as follows: Little
 18 River [Index No. 27-57-(21.5)] from source to the dam at Wake Forest Reservoir has been reclassified from Class
 19 A-II to Class A-II and B.

20 (e) The Neuse River Basin Classification Schedule was amended effective September 14, 1980 as follows: The Eno
 21 River from Durham County State Road 1003 to U.S Highway 501 [Index No. 27-2-(16)] was reclassified from Class
 22 C and B to Class A-II and B.

23 (f) The Neuse River Basin Classification Schedule was amended effective August 9, 1981 to remove the swamp
 24 water designation from all waters designated SA in the Neuse River Basin.

25 (g) The Neuse River Basin Classification Schedule was amended effective January 1, 1982 as follows: The Trent
 26 River from the mouth of Brice Creek to the Neuse River [Index No. 27-101-(39)] was reclassified from Class SC Sw
 27 to Class SB Sw.

28 (h) The Neuse River Basin Classification Schedule was amended effective April 1, 1982 as follows:

29 (1) Longview Branch from source to Crabtree Creek [Index No. 27-33-(21)] was reclassified from
 30 Class C1 to Class C.

31 (2) Watson Branch from source to Walnut Creek [Index No. 27-34-(8)] was reclassified from Class
 32 C1 to Class C.

33 (i) The Neuse River Basin Classification Schedule was amended effective December 1, 1983 to add the Nutrient
 34 Sensitive Waters classification to the entire river basin above Falls dam.

35 (j) The Neuse River Basin Classification Schedule was amended effective January 1, 1985 as follows: Nobel Canal
 36 from source to Swift Creek [Index No. 27-97-(2)] was reclassified from Class C1 to Class C.

37 (k) The Neuse River Basin Classification Schedule was amended effective August 1, 1985 as follows:

- 1 (1) Southeast Prong Beaverdam Creek from source to Beaverdam Creek [Index No. 27-33-15(2)] was
2 reclassified from Class C1 to Class C.
- 3 (2) Pigeon House branch from source to Crabtree Creek [Index No. 27-33-(18)] was reclassified from
4 Class C1 to Class C.
- 5 (3) Rocky Branch from source to Pullen Road [Index No. 27-34-6-(1)] was reclassified from Class C1
6 to Class C.
- 7 (4) Chavis Branch from source to Watson Branch [Index No. 27-37-8-1] was reclassified from Class
8 C1 to Class C.
- 9 (l) The Neuse River Basin Classification Schedule was amended effective February 1, 1986 to reclassify all Class
10 A-I and Class A-II streams in the Neuse River Basin to WS-I and WS-III.
- 11 (m) The Neuse River Basin Classification Schedule was amended effective May 1, 1988 to add the Nutrient
12 Sensitive Waters classification to the waters of the Neuse River Basin below the Falls Lake dam.
- 13 (n) The Neuse River Basin Classification Schedule was amended effective July 1, 1988 as follows:
- 14 (1) Smith Creek [Index No. 27-23-(1)] from source to the dam at Wake Forest Reservoir has been
15 reclassified from Class WS-III to WS-I.
- 16 (2) Little River [Index No. 27-57-(1)] from source to the N.C. Hwy. 97 Bridge near Zebulon including
17 all tributaries has been reclassified from Class WS-III to WS-I.
- 18 (3) An unnamed tributary to Buffalo Creek just upstream of Robertson's Pond in Wake County from
19 source to Buffalo Creek including Leo's Pond has been reclassified from Class C to B.
- 20 (o) The Neuse River Basin Classification Schedule was amended effective October 1, 1988 as follows:
- 21 (1) Walnut Creek (Lake Johnson, Lake Raleigh) [Index No. 27-34-(1)]. Lake Johnson and Lake
22 Raleigh have been reclassified from Class WS-III to Class WS-III B.
- 23 (2) Haw Creek (Camp Charles Lake)(Index No. 27-86-3-7) from the backwaters of Camp Charles
24 Lake to dam at Camp Charles Lake has been reclassified from Class C to Class B.
- 25 (p) The Neuse River Basin Classification Schedule was amended effective January 1, 1990 as follows:
- 26 (1) Neuse-Southeast Pamlico Sound ORW Area which includes all waters within a line beginning at
27 the southwest tip of Ocracoke Island, and extending north west along the Tar-Pamlico River Basin
28 and Neuse River Basin boundary line to Lat. 35 degrees 06' 30", thence in a southwest direction to
29 Ship Point and all tributaries, were reclassified from Class SA NSW to Class SA NSW ORW.
- 30 (2) Core Sound (Index No. 27-149) from northeastern limit of White Oak River Basin (a line from
31 Hall Point to Drum Inlet) to Pamlico Sound and all tributaries, except Thorofare, John Day Ditch
32 were reclassified from Class SA NSW to Class SA NSW ORW.
- 33 (q) The Neuse River Basin Classification Schedule was amended effective December 1, 1990 with the
34 reclassification of the following waters as described in (1) through (3) of this Paragraph.
- 35 (1) Northwest Creek from its source to the Neuse River (Index No. 27-105) from Class SC Sw NSW
36 to Class SB Sw NSW;

- 1 (2) Upper Broad Creek [Index No. 27-106-(7)] from Pamlico County SR 1103 at Lees Landing to the
2 Neuse River from Class SC Sw NSW to Class SB Sw NSW; and
- 3 (3) Goose Creek [Index No. 27-107-(11)] from Wood Landing to the Neuse River from Class SC Sw
4 NSW to Class SB Sw NSW.
- 5 (r) The Neuse River Basin Classification Schedule was amended effective July 1, 1991 with the reclassification of
6 the Bay River [Index No. 27-150-(1)] within a line running from Flea Point to the Hammock, east to a line running
7 from Bell Point to Darby Point, including Harper Creek, Tempe Gut, Moore Creek and Newton Creek, and
8 excluding that portion of the Bay River landward of a line running from Poorhouse Point to Darby Point from
9 Classes SC Sw NSW and SC Sw NSW HQW to Class SA NSW.
- 10 (s) The Neuse River Basin Classification Schedule was amended effective August 3, 1992 with the reclassification
11 of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were
12 reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A
13 NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with
14 primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to
15 water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate
16 primary classification after being identified as downstream of a water supply intake or identified as not being used
17 for water supply purposes.
- 18 (t) The Neuse River Basin Classification Schedule was amended effective April 1, 1994 as follows:
- 19 (1) Lake Crabtree [Index No. 27-33-(1)] was reclassified from Class C NSW to Class B NSW.
- 20 (2) The Eno River from Orange County State Road 1561 to Durham County State Road 1003 [Index
21 No. 27-10-(16)] was reclassified from Class WS-IV NSW to Class WS-IV B NSW.
- 22 (3) Silver Lake (Index No. 27-43-5) was reclassified from Class WS-III NSW to Class WS-III B
23 NSW.
- 24 (u) The Neuse River Basin Classification Schedule was amended effective July 1, 1996 with the reclassification of
25 Austin Creek [Index Nos. 27-23-3-(1) and 27-23-3-(2)] from its source to Smith Creek from classes WS-III NSW
26 and WS-III NSW CA to class C NSW.
- 27 (v) The Neuse River Basin Classification Schedule was amended effective September 1, 1996 with the
28 reclassification of an unnamed tributary to Hannah Creek (Tuckers Lake) [Index No. 27-52-6-0.5] from Class C
29 NSW to Class B NSW.
- 30 (w) The Neuse River Basin Classification Schedule was amended effective April 1, 1997 with the reclassification of
31 the Neuse River (including tributaries) from mouth of Marks Creek to a point 1.3 miles downstream of Johnston
32 County State Road 1908 to class WS-IV NSW and from a point 1.3 miles downstream of Johnston County State
33 Road 1908 to the Johnston County Water Supply intake (located 1.8 miles downstream of Johnston County State
34 Road 1908) to class WS-IV CA NSW [Index Nos. 27-(36) and 27-(38.5)].
- 35 (x) The Neuse River Basin Classification Schedule was amended effective August 1, 1998 with the revision of the
36 Critical Area and Protected Area boundaries surrounding the Falls Lake water supply reservoir. The revisions to
37 these boundaries are the result of the US Army Corps of Engineers raising the lake's normal pool elevation. The

1 result of these revisions is the Critical and Protected Area boundaries (classifications) may extend further upstream
2 than the current designations. The Critical Area for a WS-IV reservoir is defined as 0.5 miles and draining to the
3 normal pool elevation. The Protected Area for a WS-IV reservoir is defined as 5 miles and draining to the normal
4 pool elevation. The normal pool elevation of the Falls Lake reservoir has changed from 250.1 feet mean sea level
5 (msl) to 251.5 feet msl.

6 (y) The Neuse River Basin Classification Schedule was amended effective August 1, 2002 with the reclassification
7 of the Neuse River [portions of Index No. 27-(56)], including portions of its tributaries, from a point 0.7 mile
8 downstream of the mouth of Coxes Creek to a point 0.6 mile upstream of Lenoir County proposed water supply
9 intake from Class C NSW to Class WS-IV NSW and from a point 0.6 mile upstream of Lenoir County proposed
10 water supply intake to Lenoir proposed water supply intake from Class C NSW to Class WS-IV CA NSW.

11 (z) The Neuse River Basin Classification Schedule was amended effective July 1, 2004 with the reclassification of
12 the Neuse River (including tributaries in Wake County) [Index Nos. 27-(20.7), 27-21, 27-21-1] from the dam at
13 Falls Lake to a point 0.5 mile upstream of the Town of Wake Forest Water Supply Intake (former water supply
14 intake for Burlington Mills Wake Finishing Plant) from Class C NSW to Class WS-IV NSW and from a point 0.5
15 mile upstream of the Town of Wake Forest proposed water supply intake to Town of Wake Forest proposed water
16 supply intake [Index No. 27-(20.1)] from Class C NSW to Class WS-IV NSW CA. Fantasy Lake [Index No. 27 -57-
17 3-1-1], a former rock quarry within a WS-II NSW water supply watershed, was reclassified from Class WS-II NSW
18 to Class WS-II NSW CA.

19 (aa) The Neuse River Basin Classification Schedule was amended effective November 1, 2007 with the
20 reclassification of the entire watershed of Deep Creek (Index No. 27-3-4) from source to Flat River from Class WS-
21 III NSW to Class WS-III ORW NSW.

22 (bb) The Neuse River Basin Classification Schedule was amended effective January 15, 2011 with the
23 reclassification of all Class C NSW waters and all Class B NSW waters upstream of the dam at Falls Reservoir from
24 Class C NSW and Class B NSW to Class WS-V NSW and Class WS-V & B NSW, respectively. All waters within
25 the Falls Watershed are within a designated Critical Water Supply Watershed and are subject to a special
26 management strategy specified in Rules .0275 through .0283 of this Subchapter.

27 (cc) The Neuse River Basin Classification Schedule was amended effective July 1, 2012 as follows:

- 28 (1) Johnston County owned quarry near Little River [Index No. 27-57-(20.2)] from Class C NSW to
29 Class WS-IV NSW CA. The Division of Water Resources maintains a Geographic Information
30 Systems data layer of this quarry;
- 31 (2) a portion of the Neuse River [Index Number 27-(41.7)] from a point approximately 1.4 miles
32 downstream of Gar Gut to a point approximately 1.7 miles upstream of Bawdy Creek from Class
33 WS-V NSW to Class WS-IV NSW; and
- 34 (3) a portion of the Neuse River [Index No. 27-(49.5)] from a point approximately 0.5 mile upstream
35 of S.R. 1201 (Johnston County intake) to S.R. 1201 (Johnston County intake) from Class WS-IV
36 NSW to Class WS-IV NSW CA.

37 (dd) The Neuse River Basin Classification Schedule was amended effective May 1, 2023 as follows:

- 1 (1) City of Durham owned Nello Teer [quarry]Quarry near Eno River [Index No. 27-2-(19)] from
 2 Class WS-IV NSW to Class WS-IV NSW CA. The Division of Water Resources maintains a
 3 Geographic Information Systems data layer of this quarry; and
 4 (2) a portion of the Eno River [Index No. 27-2-(19)] from a point approximately 0.7 miles
 5 downstream of U.S. Highway 501 to a City of Durham raw intake located about 1.1 miles
 6 downstream of U.S. Highway 501 from Class WS-IV NSW to Class WS-IV NSW CA.

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 8
 9 *History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);*
 10 *Eff. February 1, 1976;*
 11 *Amended Eff. November 1, 2007; July 1, 2004 (see SL 2001-361); August 1, 2002; August 1,*
 12 *1998; April 1, 1997; September 1, 1996; July 1, 1996; April 1, 1994; August 3, 1992; July 1,*
 13 *1991;*
 14 *Amended Eff. January 15, 2011 (this permanent rule replaces the temporary rule approved by the*
 15 *RRC on December 16, 2010);*
 16 *Amended Eff. July 1, 2012;*
 17 *Readopted Eff. November 1, ~~2019-2019~~;*
 18 *Amended Eff. May 1, 2023.*
 19

REQUEST FOR § 150B-21.10 CHANGES

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .0516

DEADLINE FOR RECEIPT: Tuesday, April 11, 2023

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:

In Subparagraph (b)(2), the changed language is unclear. Would it be less ambiguous to state, "...shall be included in the computation of emissions; and"?

Also, in Subparagraph (b)(3), is "the determination of" necessary? Would it be less ambiguous to state, "...shall not include heat generated by the combustion of fuels to inflate the heat input value..."

Both Subparagraphs listed above lack a clear method or procedure for "the determination of emissions" or "the determination of Btu input". Is there a way to clarify this if this language is to be included?

Please retype the rule accordingly and resubmit it to our office electronically.

1 15A NCAC 02D .0516 is amended as published in 37:11 NCR 791 with changes as follows:

2
3 **15A NCAC 02D .0516 SULFUR DIOXIDE EMISSIONS FROM COMBUSTION SOURCES**

4 (a) ~~Emission~~ Emissions of sulfur dioxide from any source of ~~combustion~~ combustion, including air pollution control
5 devices, discharged from any vent, stack, ~~or chimney~~ chimney, or flare shall not exceed 2.3 pounds of sulfur dioxide
6 per million ~~BTU~~ Btu input.

7 (b) When determining compliance with this standard:

8 (1) ~~Sulfur~~ the sulfur dioxide formed by the combustion of sulfur in fuels, wastes, ores, and other
9 substances shall be ~~included when determining compliance with this standard.~~ included;

10 (2) ~~Sulfur~~ the sulfur dioxide formed or reduced as a result of treating flue gases with sulfur trioxide or
11 other materials shall also be accounted for ~~when determining compliance with this standard.~~ for in
12 the determination of emissions; and

13 (3) ~~the determination of Btu input shall not include~~ any fraction of heat input associated with the
14 combustion of fuels whose purpose is to increase heat input beyond what is needed for normal or
15 permitted operation and solely in order ~~the contribution from any portion of fuels used exclusively~~
16 to inflate the heat input value used to demonstrate compliance with ~~this standard.~~ the emission
17 standard in Paragraph (a) of this Rule.

18 ~~(b)(c)~~ (c) The standard set forth in Paragraph (a) of this Rule shall not apply to sulfur dioxide emission sources already
19 subject to an emission standard for sulfur dioxide in 15A NCAC 02D .0524, .0527, .1110, .1111, .1206, or .1210.

20
21 *History Note: Authority G.S. 143-215.3(a)(1); 143-215.107(a)(5);*
22 *Eff. February 1, 1976;*
23 *Amended Eff. July 1, 2007; April 1, 2003; July 1, 1996; February 1, 1995; October 1, 1989; January*
24 *1, 1985; April 1, 1977;*
25 *Readopted Eff. November 1, 2020-2020;*
26 *Amended Eff. May 1, 2023*