

1 15A NCAC 18A .3401 is readopted with changes as published in 35:03 NCR 175-176 as follows:

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3 **SECTION .3400 - COASTAL RECREATIONAL WATERS MONITORING, EVALUATION, AND**
4 **NOTIFICATION**

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6 **15A NCAC 18A .3401 DEFINITIONS**

7 The following definitions shall apply ~~throughout to Section 18A .3400 of this Subchapter:~~ this Section:

8 (1) "Division" means the Division of Marine Fisheries or its authorized agent.

9 ~~(1)(2)~~ (2) "Enterococcus" means a gram positive coccoid-shaped bacteria that is found in the intestinal tracts
10 of warm-blooded animals that include *Enterococcus faecalis*, *Enterococcus faecium*, *Enterococcus*
11 *avium*, and *Enterococcus gallinarum*.

12 ~~(2)(3)~~ (3) "Geometric mean" means the mean of "n" positive numbers obtained by taking the " n^{th} " root
13 of the product of the numbers with at least five samples collected within a ~~30 day~~ 30-day period.

14 (4) "Pending swimming advisory" means a notification to the public that recommends no primary
15 contact with the water in a ~~[specific]~~ designated swimming area when bacteriological limits are
16 ~~[exceeded but,] exceeded, but~~ does not close a swimming area to the public. A pending swimming
17 advisory shall include a public notification via social media release to notify the public of the risks
18 of swimming in the area. A pending swimming advisory ~~[is]~~ shall be followed by a resample that
19 will determine if a swimming advisory will be issued.

20 ~~(3)(5)~~ (5) "Point source discharge" means the discharge of liquids through a pipe, drain, ~~ditch~~ ditch, or other
21 conveyance into a swimming area.

22 ~~(4)(6)~~ (6) "Primary contact" means an activity in water in which a person's head is partially or completely
23 submerged.

24 (7) "Resample" means a water sample that is collected by the Division of Marine Fisheries or its
25 authorized agent after the results of the initial water sample collected are processed by the Division
26 and the results are ~~[analyzed,] analyzed by the Division.~~

27 ~~(5)(8)~~ (8) "Storm water discharge" means any natural or manmade conveyance of rainwater or the resultant
28 runoff into coastal recreational waters.

29 ~~(6)(9)~~ (9) "Swimming advisory" means a notification to the public that recommends no primary contact with
30 the water in a specific designated swimming area ~~for public health reasons when bacteriological~~
31 limits are exceeded, but does not close a swimming area to the public. A swimming advisory shall
32 include a sign posted at the site of the advisory and a ~~press release~~ public notification via social
33 media and news release to notify the public of the risks of swimming in the area.

34 ~~(7)~~ "Swimming alert" means a notification to the public by media contact including a press release to
35 warn the public of risks of swimming in an area that exceeds bacteriological swimming area levels.

36 ~~(8)(10)~~ (10) "Swimming area" means a coastal recreation area that is used for primary contact located within
37 waters classified by the Division of Water Quality Resources as ~~SA, SB, or SC.~~ SC, SA, or SB as

set forth in 15A NCAC 02B .0220-.0222, and is hereby incorporated by reference including subsequent ~~amendments and editions.~~ amendments.

(9)(11) "Swimming season" means from April 1 through October 31 of each year.

(10)(12) "Tier I swimming area" means a swimming area used daily during the swimming season, ~~including any public access swimming area and any other swimming area where people use the water for primary contact,~~ including all oceanfront ~~beaches.~~ beaches that are monitored by the Division.

(11)(13) "Tier II swimming area" means a swimming area ~~used an average of three days a week that is not used daily~~ during the swimming season.

(12) ~~"Tier III swimming area" means a swimming area used an average of four days a month during the swimming season.~~

(13)(14) "Winter season" means from November 1 through March 31 of each year.

*History Note: Authority G.S. ~~130A-233.1;~~ 113-134; ~~143-182;~~ 113-221.3; 143B-289.52;
Eff. February 1, 2004;
Readopted Eff. April 1, 2021.*

1 15A NCAC 18A .3402 is readopted as published in 35:03 NCR 176 as follows:

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3 **15A NCAC 18A .3402 BACTERIOLOGICAL LIMITS FOR SWIMMING AREAS**

4 (a) The enterococcus level in a Tier I swimming area shall not equal or exceed either:

5 (1) ~~A~~a geometric mean of 35 enterococci per 100 ~~milliliter~~ milliliters of water, ~~water; that includes a~~
6 ~~minimum of at least five samples collected within 30 days; or~~

7 (2) ~~A~~a single sample of 104 enterococci per 100 ~~milliliter~~ milliliters of water.

8 (b) The enterococcus level in a Tier II swimming area shall not equal or exceed a single sample of ~~276~~ 104 enterococci
9 per 100 ~~milliliter~~ milliliters of water.

10 ~~(c) The enterococcus level in a Tier III swimming area shall not exceed two consecutive samples of 500 enterococci~~
11 ~~per 100 milliliter of water.~~

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13 *History Note:* Authority ~~G.S. 130A-233.1; 113-134; 113-182;~~ 113-221.3; 143B-289.52;

14 *Eff. February 1, 2004;*

15 *Readopted Eff. April 1, 2021.*

1 15A NCAC 18A .3403 is readopted with changes as published in 35:03 NCR 176-177 as follows:

3 **15A NCAC 18A .3403 PUBLIC NOTICE OF INCREASED HEALTH RISKS IN SWIMMING AREAS**

4 (a) Tier I Swimming areas:

5 ~~(1) A swimming advisory shall be issued by the Division when samples of water from a swimming area~~
6 ~~exceeds a geometric mean of 35 enterococci per 100 milliliter during the swimming season.~~

7 ~~(2) A swimming alert shall be issued by the Division when a single sample of water from a swimming~~
8 ~~area exceeds 104 enterococci per 100 milliliter and does not exceed 500 enterococci per 100~~
9 ~~milliliter during the swimming season.~~

10 ~~(3) A swimming advisory shall be issued by the Division when a sample of water from a swimming~~
11 ~~area exceeds a single sample of 500 enterococci per 100 milliliter during the swimming season.~~

12 ~~(4) A swimming advisory shall be issued by the Division when at least two of three concurrent water~~
13 ~~samples collected at a swimming area exceeds 104 enterococci per 100 milliliter during the~~
14 ~~swimming season.~~

15 (1) A pending swimming advisory shall be issued by the Division of Marine Fisheries if a water sample
16 from a swimming area is equal to or exceeds the bacteriological limit set forth in Rule .3402(a)(2)
17 of this ~~[Section,]Section~~ during the swimming season.

18 (2) A swimming advisory shall be issued by the Division if either of the following standards are
19 exceeded during the swimming season:

20 (A) Both the initial water sample and resample collected from a swimming area ~~[is-]are~~ equal
21 to or ~~[exceeds-]exceed~~ the bacteriological limit set forth in Rule .3402(a)(2) of this Section;
22 or

23 (B) The most recent five water samples collected within a 30-day period from a swimming area
24 ~~[is-]are~~ equal to or ~~[exceeds-]exceed~~ the bacteriological limit set forth in Rule .3402(a)(1)
25 of this Section.

26 (b) Tier II swimming areas:

27 ~~(1) A swimming alert shall be issued by the Division when a single sample of water from a swimming~~
28 ~~area exceeds 276 enterococci per 100 milliliter and does not exceed 500 enterococci per 100~~
29 ~~milliliter during the swimming season.~~

30 (1) A pending swimming advisory shall be issued by the Division if a water sample from a swimming
31 area is equal to or exceeds the bacteriological limit set forth in Rule .3402(a)(2) of this Section
32 during the swimming season.

33 (2) A swimming advisory shall be issued by the Division ~~when a single sample~~ if both the initial water
34 sample and resample collected ~~of water~~ from a swimming area ~~[is-]are~~ equal to or ~~exceeds-exceed~~
35 500 enterococci per 100 milliliter the bacteriological limit set forth in Rule .3402(a)(2) of this
36 Section during the swimming season.

1 ~~(e) A Tier III swimming area with a water sample result of 500 enterococci per 100 milliliter or higher on the first~~
2 ~~sample shall be resampled the following day. If the laboratory results of the second sample exceed 500 enterococci~~
3 ~~per 100 milliliter a swimming advisory shall be issued by the Division.~~

4 ~~(d)(c)~~ Signs posted pursuant to this Section shall be placed or erected in open view where the public may see the
5 ~~sign(s)-sign~~ prior to entering the water.

6 ~~(e)(d)~~ Signs shall ~~convey~~ state the following:

7 ATTENTION: SWIMMING IN THIS AREA IS NOT RECOMMENDED. BACTERIA
8 TESTING INDICATES LEVELS OF CONTAMINATION THAT MAY BE HAZARDOUS
9 TO YOUR HEALTH. THIS ADVISORY AFFECTS WATERS WITHIN 200' OF THIS SIGN.
10 OFFICE OF THE STATE HEALTH DIRECTOR.
11

12 *History Note: Authority G.S. ~~130A-233.1; 113-134; 113-182;~~ 113-221.3; 143B-289.52;*

13 *Eff. February 1, 2004;*

14 *Readopted Eff. April 1, 2021.*

1 15A NCAC 18A .3404 is readopted with changes as published in 35:03 NCR 177 as follows:

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3 **15A NCAC 18A .3404 SWIMMING ADVISORIES FOR POINT SOURCE DISCHARGES INTO**
4 **SWIMMING AREAS**

5 (a) ~~A-The Division of Marine Fisheries shall post at least one sign at a~~ wastewater treatment plant that discharges into
6 swimming ~~waters shall be posted by the Division [of Marine Fisheries.]with at least one sign waters, which shall stay~~
7 ~~posted~~ until the discharge is removed. The ~~sign(s)-sign~~ for a wastewater treatment plant discharge shall ~~convey state~~
8 the following:

9 ~~ATTENTION: THESE WATERS MAY BE CONTAMINATED BY HUMAN OR ANIMAL~~
10 ~~WASTE. SWIMMING IS NOT ADVISED IN THESE WATERS BECAUSE OF THE~~
11 ~~INCREASED RISK OF ILLNESS. OFFICE OF THE STATE HEALTH DIRECTOR.~~

12 ~~WARNING! SEWAGE TREATMENT EFFLUENT DISCHARGE SITE. SWIMMING IS NOT~~
13 ~~ADVISED IN THESE WATERS BECAUSE OF THE INCREASED RISK OF ILLNESS. OFFICE~~
14 ~~OF THE STATE HEALTH DIRECTOR.~~

15 (b) A swimming advisory shall be issued by the Division and at least one sign shall be posted at the public
16 access to swimming waters that have been impacted by a wastewater system failure. The sign for waters
17 impacted by a wastewater spill shall state the following:

18 WARNING! WASTEWATER SPILL. SWIMMING IS NOT ADVISED IN THESE WATERS
19 BECAUSE OF THE INCREASED RISK OF ILLNESS. OFFICE OF THE STATE HEALTH
20 DIRECTOR.

21 (b)(c) A swimming advisory shall be issued by the Division and at least ~~two signs~~ one sign shall be posted at a storm
22 drain ~~or pipe~~ or storm water discharge that is actively discharging into a Tier 1 swimming area. Signs ~~A sign shall be~~
23 placed to advise the public as they enter the area impacted by the ~~drain~~ storm drain ~~or pipe~~ or storm water discharge.
24 For dry weather discharges, The signs the sign for a storm drain or storm water discharge shall convey state the
25 following:

26 ~~SWIMMING IS NOT RECOMMENDED BETWEEN SIGNS. WATERS MAY BE~~
27 ~~CONTAMINATED BY DISCHARGE FROM PIPE. OFFICE OF THE STATE HEALTH~~
28 ~~DIRECTOR.~~

29 WARNING! STORM WATER DISCHARGE AREA. SWIMMING WITHIN 200 YARDS OF
30 THIS SIGN MAY INCREASE THE RISKS OF WATERBORNE ILLNESS. OFFICE OF THE
31 STATE HEALTH DIRECTOR.

32 For wet weather discharges, the sign shall state the following:

33 WARNING! STORM WATER DISCHARGE AREA. WATERS MAY BE CONTAMINATED BY
34 DISCHARGE FROM PIPE. SWIMMING IS NOT RECOMMENDED WITHIN 200 YARDS OF THIS
35 SIGN DURING ACTIVE DISCHARGE. FOR MORE INFORMATION, CALL 252-726-6827. OFFICE OF
36 THE STATE HEALTH DIRECTOR.

1 ~~(e)~~(d) A swimming advisory shall be issued by the Division and at least two signs shall be posted at a storm drain **or**
2 **pipe** where flood waters are being pumped into a swimming area. ~~The signs shall remain posted for at least 24 hours~~
3 ~~after the pumping of flood waters has ceased.~~ The signs shall ~~convey~~state the following:

4 SWIMMING IS NOT RECOMMENDED BETWEEN SIGNS. WATERS MAY BE
5 CONTAMINATED BY DISCHARGE FROM PIPE. OFFICE OF THE STATE HEALTH
6 DIRECTOR.

7 ~~(d)~~(e) A swimming advisory shall be issued by the Division and at least two signs shall be posted at an area receiving
8 dredge material on a swimming beach ~~when~~if the dredge material is being pumped from an area closed to shellfish
9 harvesting. The signs shall ~~convey~~state the following:

10 SWIMMING IS NOT RECOMMENDED BETWEEN SIGNS. WATERS MAY BE
11 CONTAMINATED BY DISCHARGE FROM PIPE. OFFICE OF THE STATE HEALTH
12 DIRECTOR.

13
14 *History Note: Authority G.S. ~~130A-233.1; 113-134; 113-182;~~ 113-221.3; 143B-289.52;*
15 *Eff. January 1, 2004;*
16 *Readopted Eff. April 1, 2021.*

1 15A NCAC 18A .3405 is readopted with changes as published in 35:03 NCR 177-178 as follows:

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3 **15A NCAC 18A .3405 RESCINDING A PENDING SWIMMING ADVISORY OR SWIMMING ALERT**
4 **ADVISORY**

5 (a) A pending swimming advisory shall be rescinded by the Division of Marine Fisheries via social media release
6 when the resample collected meets **the** bacteriological limit set forth in Rule .3402(a)(2) of this Section.

7 ~~(a)(b)~~ A Tier I swimming area advisory shall be rescinded by the Division via social media and news release, including
8 ~~the removal of signs, when two consecutive weekly water samples and the geometric mean meet the bacteriological~~
9 ~~limits in Rule 18A .3402(a) of this Section. A swimming alert shall be rescinded within 24 hours of compliance with~~
10 ~~Rule 18A .3402(a)(2) of this Section. both of the following conditions are met:~~

11 (1) ~~The~~**the** geometric mean has met the bacteriological limit set forth in Rule .3402(a)(1) of this
12 ~~Section.]Section; and~~

13 (2) ~~Two~~**two** consecutive weekly water samples meet the bacteriological limit set forth in Rule
14 ~~.3402(a)(2) of this Section.~~

15 ~~(b)(c)~~ A Tier II ~~or Tier III~~ swimming area advisory ~~or alert~~ shall be rescinded by the Division via social media and
16 ~~news release, including the removal of signs, after water samples meet the bacteriological standard in Rule 18A~~
17 ~~.3402(b) or (c) of this Section. limit set forth in Rule .3402(b) of this Section.~~

18 ~~(c)(d)~~ A swimming advisory resulting from a ~~point source flood water~~ discharge or the discharge of dredge material
19 shall be rescinded by the Division via social media and news ~~[release-]release, including the removal of signs,~~ 24
20 hours after the discharge has ~~ceased.~~ ceased, to allow for tidal dispersion.

21 (e) A swimming advisory resulting from a wastewater system failure shall be rescinded by the Division via social
22 media and news release, including the removal of signs, when failure has been corrected and water samples collected
23 meet the bacteriological limit set forth in Rule .3402(a)(2) of this Section.

24 ~~(d) When a swimming advisory or alert has been rescinded, the Division shall issue a press release to announce the~~
25 ~~lifting of the advisory or the alert and the sign(s) shall be removed immediately by the Division.~~

26
27 *History Note: Authority G.S. ~~130A-233.1; 113-134; 113-182;~~ **113-221.3; 143B-289.52;***

28 *Eff. January 1, 2004;*

29 *Readopted Eff. April 1, 2021.*