

STATE OF NORTH CAROLINA OFFICE OF ADMINISTRATIVE HEARINGS

Mailing address: 6714 Mail Service Center Raleigh, NC 27699-6700

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August 15, 2019

Jennifer Everett Environmental Management Commission Sent via email only to: Jennifer.everett@ncdenr.gov

Re: Extension of the Period of Review for 15A NCAC 02B .0101, .0103, .0104, .0106, .0108, .0110, .0201, .0202, .0203, .0204, .0205, .0206, .0208, .0211, .0212, .0214, .0215, .0216, .0218, .0219, .0220, .0221, .0222, .0223, .0224, .0225, .0226, .0227, .0228, .0230, .0231, .0301, .0302, .0303, .0304, .0305, .0306, .0307, .0308, .0309, .0310, .0311, .0312, .0314, .0315, .0316, and .0317

Dear Ms. Everett:

At its meeting this morning, the Rules Review Commission extended the period of review for the above-captioned rules in accordance with G.S. 150B-21.10. They did so in response to a request from the agency to extend the period in order to allow the agency to address technical changes and submit the rewritten rules at a later meeting.

Pursuant to G.S. 150B-21.13, when the Commission extends the period of review, it is required to approve or object to rules or call a public hearing on the same within 70 days.

If you have any questions regarding the Commission's actions, please let me know.

Sincerely,

Amber C. May Commission Counsel

cc: Connie Brower

Administration 919/431-3000 fax:919/431-3100 Rules Division 919/431-3000 fax: 919/431-3104

Judges and Assistants 919/431-3000 fax: 919/431-3100 Clerk's Office 919/431-3000 fax: 919/431-3100

Rules Review Commission 919/431-3000 fax: 919/431-3104

Civil Rights Division 919/431-3036 fax: 919/431-3103

An Equal Employment Opportunity Employer

Subject: FW: RRC Review - Technical Changes for 15A NCAC 02B .0100 - .0300.

From: Brower, Connie < connie.brower@ncdenr.gov>

Sent: Wednesday, August 7, 2019 12:07 PM

To: May, Amber Cronk <<u>amber.may@oah.nc.gov</u>>

Cc: Manning, Jeff <<u>jeff.manning@ncdenr.gov</u>>; Culpepper, Linda <<u>linda.culpepper@ncdenr.gov</u>>; Everett, Jennifer <<u>jennifer.everett@ncdenr.gov</u>>; Ventaloro, Julie <<u>julie.ventaloro@ncdenr.gov</u>>; Ventaloro, Christopher <<u>christopher.ventaloro@ncdenr.gov</u>>; Weaver, Adriene <<u>adriene.weaver@ncdenr.gov</u>>; Kountis, Elizabeth <<u>elizabeth.kountis@ncdenr.gov</u>>; Flaherty, Bridget <<u>bridget.flaherty@ncdenr.gov</u>>; Johnston, Peter <<u>Peter.Johnston@ncdenr.gov</u>>; Meadows, Susan <<u>susan.meadows@ncdenr.gov</u>>; Subject: RRC Review - Technical Changes for 15A NCAC 02B .0100 - .0300.

Dear Ms. May,

We are kindly asking to extend the period of review for 15A NCAC 02B .0100 -.0300 in order for staff to continue addressing the Requests for Technical Changes. We are making great progress - but, feel that additional time would be beneficial to assure that we are thoughtful and careful in our review.

Thanks so much. Please let us know if you need additional information with respect to this request.

Connie

Connie Brower Department of Environmental Quality Division of Water Resources Classifications, Standards and Rules Review Branch 919 707 3686 <u>Connie.Brower@ncdenr.gov</u>

Office Location: 711J Archdale Bldg., Raleigh, NC Mailing Address: 1611 Mail Service Center Raleigh, NC 27699-1611 Email correspondence to and from this address is subject to the North Carolina Public Records Law and may be disclosed to third parties

Email correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties by an authorized state official.

AGENCY: Environmental Management Commission

RULE CITATION: All Rules

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Please capitalize "state" where you mean the State of NC.

Throughout these Rules, where a word is defined by .0202, I don't think it's necessary to say "[as defined by Rule .0202]" In some cases, I think that this causes some awkward language. Please consider removing this language where you deem appropriate.

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0101

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Some of this Rule appears to be internal management and does not meet the definition of a "rule" as set forth in 150B-2(8a). Please review and revise as necessary.

Overall, I'm a bit confused by the intent of (b). Some of it appears to addressed petition for rulemaking in accordance with 150B-20. Please review and clarify.

Since you've already incorporated 40 CFR .131.10 by reference in (b)(2), delete "a copy of the most current…" on lines 26-27 in (b)(3).

In (b)(4), delete "appropriate" and "proper"

In (b)(4), is there a cross-reference to the required "public hearing"?

I'm not sure that I understand what is going on in (b)(5). G.S. 150B-20 addresses petitions for rule-making. Isn't this addressed elsewhere in your Rules? Alternatively, is this necessary? Since the Commission is the Rulemaking body, this appears to be internal management. Please review and clarify and/or otherwise revise. If the intent is for (5)(and (6) to be your rulemaking rule required by 150B-20, please provide some additional information as to where to send the petition for rulemaking, what is to be required in the petition, etc.

What is the public hearing requirement as set forth in 150B? Is this if the petition for rulemaking is granted?

In (b)(6), how will it be determined whether to grant or deny the petition? The factors are not provided in 150B-20. The time limits are. Is that what you mean?

Amber May Commission Counsel Date submitted to agency: July 30, 2019 Is (b)(7) necessary? It appears to relate to internal management.

- In (b)(8), again, what public hearing?
- Is (b)(8) necessary?
- In (b)(8), delete or define "complete" and "relevant"
- In (b)(8), change "which should" to "to"
- In (b)(9), will they also consider the factors in 143-214.1?
- What is the intent of (b)(10)? Is this necessary?

15A NCAC 02B .0101 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

2

3 15A NCAC 02B .0101 GENERAL PROCEDURES

4 (a) The rules contained in Sections .0100, .0200 and .0300 of this Subchapter Subchapter, which pertain to the series

of classifications and water quality standards standards, shall be known as the "Classifications and Water Quality
Standards Applicable to the Surface Waters and Wetlands of North Carolina."

(b) The Environmental Management Commission, prior to classifying and assigning standards of water quality to any
 waters of the state, State, shall proceed as follows:

- 9 (1) The Commission, or its designee, shall determine waters to be studied for the purpose of 10 classification and assignment of water quality standards on the basis of user requests, petitions, or 11 the identification of existing or attainable water uses, as defined by 15A NCAC 2B .0202, <u>Rule</u> 12 .0202 of this Subchapter, not presently included in the water classification.
- 13
 (2)
 In determining the best usage of waters and assigning classifications of such waters, the Commission

 14
 shall consider the criteria specified in G.S. 143-214.1(d). In determining whether to revise a

 15
 designated best usage for waters through a revision to the classifications, the Commission shall

 16
 follow the requirements of 40 CFR [131.10(b)(c)(d) and (g),]
 131.10 which [are hereby] is

 17
 incorporated by reference including subsequent amendments and editions. A copy of the most

 18
 current version of the requirements is available free of charge [on the internet] at

 19
 http://www.gpo.gov/fdsys/.
- 20 <u>(3)</u> When revising the classification of waters, the Division shall collect water quality data within the 21 watershed for those substances [which] that require more stringent control than required by the 22 existing classification. However, such sampling may be limited to only those parameters [which] that are of concern. If the revision to classifications involves the removal of a designated use, the 23 Division shall conduct a use attainability analysis as required by the provisions of 40 CFR 24 [131.10(j), which are hereby incorporated by reference including subsequent amendments and 25 26 editions.] 131.10. A copy of the most current version of the provisions is available free of charge 27 [on the internet] at http://www.gpo.gov/fdsys/.
- After appropriate studies of the identified waters to obtain the data and information required for determining the proper classification of the waters or segments of water are completed, the Commission, or its designee, shall make a decision on whether to initiate proceedings to modify the classifications and water quality standards of identified waters. In the case of the Commission's designee deciding to initiate said proceedings, the designee shall inform the Commission of the decision prior to scheduling a public hearing.
- 34(3)(5)In the case of a petition for classification and assignment of water quality standards according to the35requirements of General Statute G.S. 150B-20, the Director shall make a preliminary36recommendation on the appropriate classifications and water quality standards of the identified

1		waters on the basis of the study findings or information included in the petition supporting the
2		classification and standards changes.
3	(4)<u>(6)</u>	The Commission shall make a decision on whether to grant or deny a petition in accordance with
4		the provisions of General Statute G.S. 150B-20 based on the information included in the petition
5		and the recommendation of the Director. The Commission may deny the petition and request that
6		the Division study the appropriate classifications and water quality standards for the petitioned
7		waters in accordance with Subparagraph (b)(4) of this Rule.
8	(5)<u>(7)</u>	The Director shall give due notice of such public hearing or hearings regarding water quality
9		classifications or standards in accordance with the requirements of General Statute G.S. 143-214.1
10		and G.S. 150B, 150B and shall appoint a hearing officer(s) in consultation with the chairman of the
11		Commission.
12	(6)<u>(8)</u>	The After completion of a public hearing regarding water quality classifications or standards, the
13		hearing officer(s) shall, as soon as practicable after the completion of the hearing, shall submit a
14		complete report of the proceedings of the hearing to the Commission. The hearing officer(s) shall
15		include in the report a transcript or summary of testimony presented at such public hearing, relevant
16		exhibits, a summary of relevant information from the stream studies conducted by the technical staff
17		of the Commission, and final recommendations as to classification of the designated waters and the
18		standards of water quality and best management practices which should be applied to the
19		classifications recommended.
20	(7)<u>(9)</u>	The Commission, after due consideration of the hearing records and the final recommendations of
21		the hearing officer(s), shall adopt its final action with respect to the assignment of classifications,
22		and any applicable standards or best management practices applicable to the waters under
23		consideration. The Commission shall publish such action, together with the effective date for the
24		application of the provisions of General Statute 143 215.1 and 143 215.2, as amended, as a part of
25		the Commission's official rules. The Commission shall consider the hearing record(s) and final
26		recommendation(s) of the hearing officer(s) before [adopting its] taking final action with respect to
27		the assignment of classifications and any applicable standards or best management practices
28		applicable as rule(s) to the waters under consideration.
29	(8) (10)	The final action of the Commission with respect to the assignment of classification with its
30		accompanying standards and best management practices shall contain the Commission's
31		conclusions relative to the various factors given in G.S. 143-214.1(d), 143-214.1(d) and shall
32		specifically include the class or classes to which such specifically designated waters in the watershed
		specifically include the class or classes to which such specifically designated waters in the watershed or watersheds shall be assigned on the basis of best usage in the interest of the public.
32	(c) Freshwater sl	
32 33	(c) Freshwater sl (1)	or watersheds shall be assigned on the basis of best usage in the interest of the public.
32 33 34		or watersheds shall be assigned on the basis of best usage in the interest of the public. hall be assigned to one of the following classification:

1	(2)	Class B: freshwaters protected for primary recreation which includes swimming on a frequent or
2		organized basis and all Class C uses.
3	(3)	Class WS I: waters protected as water supplies which are essentially in natural and undeveloped
4		watersheds. Point source discharges of treated wastewater are permitted pursuant to Rules .0104 and
5		.0211 of this Subchapter. Local programs to control nonpoint sources and stormwater discharges of
6		pollution are required. Suitable for all Class C uses.
7	(4)	Class WS-II: waters protected as water supplies which are generally in predominantly undeveloped
8		watersheds. Point source discharges of treated wastewater are permitted pursuant to Rules .0104 and
9		.0211 of this Subchapter. Local programs to control nonpoint sources and stormwater discharges of
10		pollution shall be required. Suitable for all Class C uses.
11	(5)	Class WS III: waters protected as water supplies which are generally in low to moderately
12		developed watersheds. Point source discharges of treated wastewater are permitted pursuant to Rules
13		.0104 and .0211 of this Subchapter. Local programs to control nonpoint sources and stormwater
14		discharges of pollution shall be required. Suitable for all Class C uses.
15	(6)	Class WS IV: waters protected as water supplies which are generally in moderately to highly
16		developed watersheds. Point source discharges of treated wastewater are permitted pursuant to Rules
17		.0104 and .0211 of this Subchapter. Local programs to control nonpoint sources and stormwater
18		discharges of pollution shall be required; suitable for all Class C uses.
19	(7)	Class WS V: waters protected as water supplies which are generally upstream of and draining to
20		Class WS IV waters. No categorical restrictions on watershed development or treated wastewater
21		discharges shall be required. However, the Commission or its designee may apply appropriate
22		management requirements as deemed necessary for the protection of downstream receiving waters
23		(15A NCAC 2B .0203); suitable for all Class C uses.
24	(8)	Class WL: waters that meet the definition of wetlands found in 15A NCAC 2B .0202 except those
25		designated as Class SWL.
26	(d) Tidal Salt W	Vaters shall be assigned to one of the following:
27	(1)	Class SC: saltwaters protected for secondary recreation, fishing, aquatic life including propagation
28		and survival, and wildlife. All saltwaters shall be classified to protect these uses at a minimum.
29	(2)	Class SB: saltwaters protected for primary recreation which includes swimming on a frequent or
30		organized basis and all Class SC uses.
31	(3)	Class SA: suitable for commercial shellfishing and all other tidal saltwater uses.
32	(4)	Class SWL: waters that meet the definition of coastal wetlands as defined by 15A NCAC 2H .0205,
33		and which are landward of the mean high water line, and wetlands contiguous to estuarine waters
34		as defined by 15A NCAC 2H .0206.
35	(e) The following	ng are supplemental classifications:
36	(1)	Trout waters (Tr): freshwaters protected for natural trout propagation and survival of stocked trout.

1	(2)	Swamp waters (Sw): waters which have low velocities and other natural characteristics which are
2		different from adjacent streams.
3	(3)	Nutrient Sensitive Waters (NSW): waters subject to growths of microscopic or macroscopic
4		vegetation requiring limitations on nutrient inputs.
5	(4)	Outstanding Resource Waters (ORW): unique and special waters of exceptional state or national
6		recreational or ecological significance which require special protection to maintain existing uses.
7	(5)	High Quality Waters (HQW): waters which are rated as excellent based on biological and
8		physical/chemical characteristics through Division monitoring or special studies, native and special
9		native trout waters (and their tributaries) designated by the Wildlife Resources Commission,
10		primary nursery areas (PNA) designated by the Marine Fisheries Commission and other functional
11		nursery areas designated by the Marine Fisheries Commission, all water supply watersheds which
12		are either classified as WS-I or WS-II or those for which a formal petition for reclassification as
13		WS I or WS II has been received from the appropriate local government and accepted by the
14		Division of Water Quality and all Class SA waters.
15	(6)	Future Water Supply (FWS): waters that have been requested by a local government and adopted
16		by the Commission as a future source for drinking, culinary , or food processing purposes. Local
17		government(s) requesting this reclassification shall provide to the Division evidence of intent which
18		may include one or a combination of the following: capitol improvement plans, a Water Supply Plan
19		as described in G.S. 143 355(1), bond issuance for the water treatment plant or land acquisition
20		records. Local governments shall provide a 1:24,000 scale USGS topographical map delineating the
21		location of the intended water supply intake. Requirements for activities administered by the State
22		of North Carolina, such as the issuance of permits for landfills, NPDES wastewater discharges, land
23		application of residuals and road construction activities shall be effective upon reclassification for
24		future water supply use. The requirements shall apply to the critical area and balance of the
25		watershed or protected area as appropriate. Upon receipt of the final approval letter from the
26		Division of Environmental Health for construction of the water treatment plant and water supply
27		intake, the Commission shall initiate rule making to modify the Future Water Supply supplemental
28		elassification. Local government implementation is not required until 270 days after the
29		Commission has modified the Future Water Supply (FWS) supplemental classification through the
30		rule making process and notified the affected local government(s) that the appropriate local
31		government land use requirements applicable for the water supply classifications are to be adopted,
32		implemented and submitted to the Commission for approval. Local governments may also adopt
33		land use ordinances that meet or exceed the state's minimum requirements for water supply
34		watershed protection prior to the end of the 270 day deadline. The requirements for FWS may also
35		be applied to waters formerly used for drinking water supply use, and currently classified for water
36		supply use, at the request of local government(s) desiring protection of the watershed for future
37		water supply use.

- 1 (7)Unique wetland (UWL): wetlands of exceptional state or national ecological significance which 2 require special protection to maintain existing uses. These wetlands may include wetlands that have 3 been documented to the satisfaction of the Commission as habitat essential for the conservation of 4 state or federally listed threatened or endangered species. 5 (f) In determining the best usage of waters and assigning classifications of such waters, the Commission shall consider 6 the criteria specified in General Statute 143-214.1(d) and all existing uses as defined by 15A NCAC 2B .0202. In 7 determining whether to revise a designated best usage for waters through a revision to the classifications, the Commission shall follow the requirements of 40 CFR 131.10(b),(c),(d) and (g) which are hereby incorporated by 8 9 reference including any subsequent amendments and editions. This material is available for inspection at the Department of Environment, Health, and Natural Resources, Division of Water Quality, Water Quality Section, 512 10 North Salisbury Street, Raleigh, North Carolina, Copies may be obtained from the U.S. Government Printing Office, 11 Superintendent of Documents, Washington, DC 20402 9325 at a cost of thirteen dollars (\$13.00). 12 13 (g) When revising the classification of waters, the Division shall collect water quality data within the watershed for 14 those substances which require more stringent control than required by the existing classification. However, such sampling may be limited to only those parameters which are of concern. If the revision to classifications involves the 15 16 removal of a designated use, the Division shall conduct a use attainability study as required by the provisions of 40 CFR 131.10(i) which are hereby incorporated by reference including any subsequent amendments and editions. This 17 18 material is available for inspection at the Department of Environment, Health, and Natural Resources, Division of 19 Water Quality, Water Quality Section, 512 North Salisbury Street, Raleigh, North Carolina. Copies may be obtained from the U.S. Government Printing Office, Superintendent of Documents, Washington, DC 20402 9325 at a cost of 20 21 thirteen dollars (\$13.00). 22 23 History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); 24 Eff. February 1, 1976; 25 Amended Eff. August 1, 1995; February 1, 1993; August 3, 1992; August 1, 1990; 26 RRC Objection Eff. July 18, 1996 due to lack of statutory authority and ambiguity; 27 Amended Eff. October 1, 1996. 1996;
- 28 <u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0103

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

In (a), lines 5 and 12, what is meant by "insofar as practicable and applicable"? How is this determined? Who holds this discretion? If it's you all, please either delete this language or say how it is to be determined.

Should lines 11-22 ("Methods not codified...22314") be its own Paragraph?

In (a), what is the cost of the "Standard Methods for the Examination of Water and Wastewater"? 150B-21.6 requires this information.

15A NCAC 02B .0103 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

3 15A NCAC 02B .0103 ANALYTICAL PROCEDURES

4 (a) Chemical/Physical Procedures. Tests or analytical procedures to determine conformity or non conformity with 5 standards shall, insofar as practicable and applicable, conform to the guidelines by the U.S. Environmental Protection 6 Agency (EPA) codified as 40 CFR, Part 136, which are hereby incorporated by reference including any subsequent 7 amendments and editions. This material is available for inspection at the Department of Environment, Health, and 8 Natural Resources, Division of Water Quality, Water Quality Section, 512 North Salisbury Street, Raleigh, North 9 Carolina. Copies may be obtained from the U.S. Government Printing Office, Superintendent of Documents, 10 Washington, DC 20402 9325 at a cost of thirteen dollars (\$13.00). A copy of the most current version of 40 CFR Part 136 is available free of charge [on the internet] at http://www.gpo.gov/fdsys/. Methods not codified by 40 CFR, Part 11 12 136 will, shall, insofar as practicable and applicable, conform to the guidelines by the American Public Health 13 Association, Association (APHA), American Water Works Association, Association (AWWA), and Water 14 Environment Federation (WEF) publication A Standard "Standard Methods for the Examination of Water and Wastewater, 19th edition@(1996) [20th edition"] or subsequent editions Wastewater" (20th edition), which are is 15 hereby incorporated by reference. reference, including subsequent amendments and editions. Copies may be obtained 16 from the Water Environment Federation, 601 Wythe St., Alexandria, VA, 22314 at a cost of one hundred and eighty 17 18 dollars (\$180.00). The 20th edition is available for inspection at the Department of Environmental Quality, Division 19 of Water Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604-1170. A copy of the most current 20 edition of [the "Standards] "Standard Methods for the Examination of Water and Wastewater" is available for purchase 21 from the following places: APHA, 8001 Street, NW Washington, DC 20001; AWWA, 6666 W. Quincy Avenue, 22 Denver, CO 80235; or WEF, 601 Wythe Street, Alexandria, VA 22314. 23 (b) Biological Procedures. Biological tests to determine conformity or non-conformity with standards shall be based on methods published by the U.S. Environmental Protection Agency EPA as codified as 40 CFR, Part 136, which are 24 25 hereby incorporated by reference including any subsequent amendments and editions. A copy of the most current 26 version of 40 CFR Part 136 is available free of charge of the internet at http://www.gpo.gov/fdsys/. including any subsequent amendments and editions. This material is available for inspection at the Department of Environment, 27 28 Health and Natural Resources, Division of Water Quality, Water Quality Planning Branch, 512 North Salisbury Street, 29 Raleigh, North Carolina. Copies may be obtained from the U.S. Government Printing Office, Superintendent of Documents, Washington, DC 20402-9325 at a cost of thirteen dollars (\$13.00). 30 31 (c) Wetland Evaluation Procedures. Evaluations of wetlands for the presence of existing uses shall be based on 32 procedures approved by the Director. The Director shall approve wetland evaluation procedures that have been 33 demonstrated to produce verifiable and repeatable results and that have widespread acceptance in the scientific 34 community. Copies of approved methods or guidance may be obtained at no cost by submitting a written request to NCDWQ, Ecological Assessment Group, P.O. Box 29535, Raleigh, NC 27626-0535. NCDWR, Wetlands Branch, 35 1617 Mail Service Center, Raleigh, NC 27699-1617. 36

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1	History Note:	Authority G.S. 143-214.1; 143-215.3(a)(1);
2		Eff. February 1, 1976;
3		Amended Eff. February 1, 1993; October 1, 1989; January 1, 1985; September 9, 1979;
4		RRC Objection Eff. July 18, 1996 due to lack of statutory authority and ambiguity;
5		Amended Eff. October 1, 1996. <u>1996;</u>
6		<u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0104

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

In (a), line 6, what is "approved treatment"? Approved by whom? In accordance with what? The permit? Your Rules?

In (a), please change "shall be guided by" to "shall consider"

In (b), lines 23, why is it necessary to say "All reclassifications shall adhere to rulemaking requirements of G.S. 150B"? If I'm not mistaken, this is already provided in your statutes and also the definition of a Rule in 150B itself.

In (b), should the reclassification information be its own Paragraph?

In (b), please consider providing the requirements of a reclassification request in list form.

What is the difference between (d) and (e)? They use the exact same language, but have different formats. Please review and clarify.

What is the intent of (h)? Is it just to say that y'all can do it? If so, it's not necessary as it essentially just points to the authorizing statute.

In (i), please begin a new sentence with "Other discharges of treated wastewater..."

On line 30, how is the Division to determine whether more stringent requirements will be in place? What factors will use in making this determination?

In (j), what is meant by "deemed permitted"? Can you delete "deemed permitted and" If not, how is something "deemed permitted"?

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

Amber May Commission Counsel Date submitted to agency: July 30, 2019

315A NCAC 02B .0104CONSIDERATIONS/ASSIGNING/IMPLEMENTINGWATERSUPPLY4CLASSIFICATIONS

5 (a) In determining the suitability of waters for use as a source of water supply for drinking, eulinary culinary, or food 6 processing purposes after approved treatment, the Commission will shall be guided by the physical, chemical, and 7 bacteriological maximum contaminant levels specified by U.S. Environmental Protection Agency regulations adopted 8 pursuant to the Public Health Service Act, 42 U.S.C. 201 et seq., as amended by the Safe Drinking Water Act, 42 9 U.S.C. 300(f) et seq. In addition, the Commission shall be guided by the requirements for unfiltered and filtered water 10 supplies and the maximum contaminant levels specified in the North Carolina Rules Governing Public Water Supplies, 11 15A NCAC 18C .1100, .1200 and .1500, .1500, which are [hereby] incorporated by reference including subsequent amendments and editions. and comments provided by the Division of Environmental Health. 12 13 (b) All local governments that have land use authority within designated water supply watersheds shall adopt and 14 enforce ordinances that at a minimum meet the requirements of G.S. 143-214.5 and this Subchapter. The Commission 15 shall approve local water supply protection programs if it determines that the requirements of the local program equal or exceed the minimum statewide water supply watershed management requirements adopted pursuant to this Section. 16 Local governments may adopt and enforce more stringent controls. Local management programs and modifications 17 18 to these programs must be approved by the Commission and shall be kept on file by the Division of Environmental

19 Management, Division of Environmental Health and the Division of Community Assistance.

20 (c)(b) All waters used for water supply purposes or intended for future water supply use shall be classified to the most 21 appropriate water supply classification as determined by the Commission. Commission in accordance with Sections 22 .0100 and .0200 of this Subchapter. Water supplies may be reclassified to a more or less protective water supply 23 elassification on a case by case basis through the rule making process. All reclassifications shall adhere to the 24 rulemaking requirements of G.S. 150B. A more protective water supply classification may be applied to existing water 25 supply watersheds after receipt of a resolution from all local governments having land use jurisdiction within the 26 designated water supply watershed requesting a more protective water supply classification. Requests for 27 reclassification of non-water supply segments and watersheds to a water supply classification shall include submittal 28 to the Commission of resolutions from all local governments having land use jurisdiction within the proposed water 29 supply watershed for which a water supply classification is being requested, provided that the Commission may 30 reclassify waters without the consent of local governments where if the Commission deems such reclassifications 31 appropriate and [necessary.] necessary in accordance with Rule .0101 of this Section. Local governments requesting 32 water supply reclassifications shall provide a topographic map (such as a 1:24,000 scale USGS map) indicating the 33 normal pool elevation for backwaters of water supply reservoirs, longitude and latitude coordinates of intended water 34 supply intakes, and critical areas and other watershed boundaries as appropriate. Local government(s) requesting the 35 Future Water Supply classification must provide to the Division evidence of intent which may include one or a 36 combination of the following: capital improvement plans, a Water Supply Plan as described in G.S. 143 355(I), bond

37 issuance for the water treatment plant or land acquisition records. A 1:24,000 scale USGS topographical map

delineating the location of the intended water supply intake is also required. Requirements for activities administered 1 2 by the State of North Carolina, such as the issuance of permits for landfills, NPDES wastewater discharges, land 3 application of residuals and road construction activities shall be effective upon reclassification for future water supply 4 use. The requirements shall apply to the critical area and balance of the watershed or protected area as appropriate. 5 Upon receipt of the final approval letter from the Division of Environmental Health for construction of the water 6 treatment plant and water supply intake, the Commission shall initiate rule making to modify the Future Water Supply 7 supplemental classification. Local government implementation is not required until 270 days after the Commission has modified the Future Water Supply (FWS) supplemental classification through the rule making process and notified 8 9 the affected local government(s) that the appropriate local government land use requirements applicable for the water 10 supply classifications are to be adopted, implemented and submitted to the Commission for approval. Local governments may also adopt land use ordinances that meet or exceed the state's minimum requirements for water 11 supply watershed protection prior to the end of the 270 day deadline. The requirements for FWS may also be applied 12 to waters formerly used for drinking water supply purposes, and currently classified for water supply use, at the request 13 14 of local government(s) desiring protection of the watershed for future water supply use. 15 $\frac{d}{d}$ (c) In considering the reclassification of waters for water supply purposes, the Commission shall take into consideration the risks posed by pollutants and the relative proximity, quantity, composition, natural dilution, 16 and diminution of potential sources of pollution to determine that risks posed by all significant pollutants are 17 18 adequately considered, pollution. (e)(d) For the purposes of implementing the The water supply watershed protection rules (15A NCAC 2B .0100, 19 .0200 and .0300) and the requirements of Rules .0620 through .0624 of this Subchapter and G.S. 143-214.5, 143-214.5 20 21 that the following schedule of implementation shall be applicable: [effective dates] are applicable to State agencies 22 and units of local government with land use authority in water supply watersheds that were classified as such on or 23 before [and including] August 3, [1992:] 1992, shall be effective no later than: 24 August 3, 1992 - Activities administered by the State of North Carolina, such as the issuance of (1)25 permits for landfills, NPDES wastewater discharges, and land application of sludge/residuals, and 26 road construction activities, shall become effective regardless of the deadlines for municipal and county water supply watershed protection ordinance adoptions; activities; 27 28 <mark>(2)</mark> By July 1, 1993 - Affected municipalities Municipalities with a population greater than 5,000 shall 29 adopt and submit the appropriate drinking water supply protection, maps and ordinances that meet or exceed the minimum management requirements of these Rules; 5,000; 30 By October 1, 1993 - Affected municipalities Municipalities with a population less than 5,000 shall 31 <mark>(3)</mark> adopt and submit the appropriate drinking water supply protection, maps and ordinances that meet 32 33 or exceed the minimum management requirements of these Rules; 5,000; and 34 <mark>(4)</mark> By January 1, 1994 - Affected county County governments shall adopt and submit the appropriate drinking water supply protection, maps and ordinances that meet or exceed the minimum 35 management requirements of these Rules. and other units of local government, as applicable. 36

1	Affected local government drinking water supply protection ordinances shall become effective on or before these
2	dates. Local governments may choose to adopt, implement and enforce these provisions prior to this date. Three copies
3	of the adopted and effective relevant ordinances shall be sent to the Division along with a cover letter from the
4	municipal or county attorney, or its designated legal counsel, stating that the local government drinking water supply
5	protection ordinances shall meet or exceed the rules in 15A NCAC 2B .0100, .0200 and .0300. If the rules in 15A
6	NCAC 2B .0100, .0200 and .0300 are revised, the Division shall modify and distribute to local governments, as
7	appropriate, a revised model ordinance. The Division shall approve the amended local maps and ordinances, or request
8	the Commission to take appropriate action under G.S. 143-214.5.
9	(e) [For water supply watersheds] The water supply watershed protection requirements of Rules .0620 through .0624
10	of this Subchapter and G.S. 143-214.5 that are applicable to State agencies and units of local government with land
11	use authority in water supply watersheds that were classified as such after August 3, 1992, [the effective dates for
12	implementation of the water supply watershed protection requirements shall be as follows:] shall be effective no later
13	than:
14	(1) [For] for activities administered by the State of North Carolina, such as the issuance of permits for
15	landfills, NPDES wastewater dischargers, and land application of [sludge/residuals,] sludge or
16	residuals, and road construction activities, [the effective date is] the date the reclassification became
17	effective. effective; and
18	(2) [For] for local governments, [the effective date shall be] the date the local watershed ordinance was
19	adopted or revised to reflect the reclassification, but no later than 270 days after receiving notice of
20	a reclassification from the Commission.
21	(f) Wherever in this Subchapter it is provided that local governments assume responsibility for operation and
22	maintenance of engineered stormwater control(s), this shall be construed to require responsible local governments to
23	inspect such controls at least once per year, to determine whether the controls are performing as designed and intended.
24	Records of inspections shall be maintained on forms supplied by the Division. Local governments may require
25	payment of reasonable inspection fees by entities which own the controls, as authorized by law. In the event inspection
26	shows that a control is not performing adequately, the local government shall order the owning entity to take corrective
27	actions. If the entity fails to take sufficient corrective actions, the local government may impose civil penalties and
28	pursue other available remedies in accordance with the law. The availability of new engineered stormwater controls
29	as an alternative to lower development density and other measures under the provisions of this Subchapter and local
30	ordinances approved by the Commission shall be conditioned on the posting of adequate financial assurance, in the
31	form of a cash deposit or bond made payable to the responsible local government, or other acceptable security. The
32	establishment of a stormwater utility by the responsible local government shall be deemed adequate financial
33	assurance. The purpose of the required financial assurance is to assure that maintenance, repairs or reconstruction
34	necessary for adequate performance of the controls may be made by the owning entity or the local government which
35	may choose to assume ownership and maintenance responsibility.
36	(g) Where higher density developments are allowed, stormwater control systems must use wet detention ponds as
37	described in 15A NCAC 2H .1003(g)(2), (g)(3), (i), (j), (k), and (l). Alternative stormwater management systems

1 consisting of other treatment options, or a combination of treatment options, may be approved by the Director. The

2 design criteria for approval shall be 85 percent average annual removal of Total Suspended Solids. Also the discharge

3 rate shall meet one of the following criteria:

- 4 (1) the discharge rate following the 1-inch design storm shall be such that the runoff draws down to the 5 pre-storm design stage within five days, but not less than two days; or
- 6 (2) the post development peak discharge rate shall equal the predevelopment rate for the 1 year, 24 hour
 7 storm.

8 (h)[(e)](f) Where no practicable alternative exists, discharge Discharge from groundwater remediation projects

9 addressing water quality problems shall be allowed if an engineering alternatives analysis submitted for approval in

10 accordance with 15A NCAC 02H .0105(c) demonstrates that no practicable alternative exists to such a discharge.

11 <u>Such discharges shall meet</u> in accordance with other applicable requirements in all water supply classifications. of

12 Rules .0212 through .0218 of this Subchapter.

13 (i) To further the cooperative nature of the water supply watershed management and protection program provided for

14 herein, local governments with jurisdiction over portions of classified watersheds and local governments which derive

15 their water supply from within such watersheds are encouraged to establish joint water quality monitoring and

16 information sharing programs, by interlocal agreement or otherwise. Such cooperative programs shall be established

- 17 in consultation with the Division.
- 18 (j)[(f)](g) Where no practicable alternative exists other than surface water discharge, For previously unknown
- 19 existing unpermitted wastewater discharges discharges to surface water, an engineering alternatives analysis shall be

20 submitted for approval in accordance with 15A NCAC 02H .0105(c). incorporate the best possible technology

21 treatment as deemed appropriate by the Division. If the analysis finds that no practicable alternative exists to surface

- 22 water discharges, such discharges shall meet the "Minimum treatment requirements" as defined in Rule .0403 of this
- 23 <u>Subchapter.</u>
- (k)[(g)](h) The Commission may designate water supply watersheds or portions thereof as critical water supply
 watersheds pursuant to G.S. 143-214.5(b).

26 (h)[(h)](i) A more protective classification may be allowed by the Commission although minor occurrences of 27 nonconforming activities are present prior to reclassification. When the Commission allows a more protective 28 classification, expansions of existing wastewater discharges that otherwise would have been prohibited may be

allowed if there is no increase in permitted pollutant loading; other discharges of treated wastewater existing at the

- 30 time of reclassification may be required to meet more stringent effluent limitations as determined by the Division.
- 31 Consideration of all practicable alternatives to surface water discharge must shall be documented.
- 32 (m) The construction of new roads and bridges and non residential development shall minimize built upon area, divert

33 stormwater away from surface water supply waters as much as possible, and employ best management practices

- 34 (BMPs) to minimize water quality impacts. To the extent practicable, the construction of new roads in the critical area
- 35 shall be avoided. The Department of Transportation shall use BMPs as outlined in their document entitled "Best
- 36 Management Practices for the Protection of Surface Waters" which is hereby incorporated by reference including all
- 37 subsequent amendments and editions. This material is available for inspection at the Department of Environment,

1 Health, and Natural Resources, Division of Environmental Management, Water Quality Planning Branch, 512 North

2 Salisbury Street, Raleigh, North Carolina, .

- 3 (n) Activities within water supply watersheds are also governed by the North Carolina Rules Governing Public Water
- 4 Supplies, 15A NCAC 18C .1100, .1200 and .1500. Proposed expansions of treated wastewater discharges to water
- 5 supply waters must be approved by the Division of Environmental Health.
- 6 (o) Local governments shall correctly delineate the approximate normal pool elevation for backwaters of water supply
- 7 reservoirs for the purposes of determining the critical and protected area boundaries as appropriate. Local governments
- 8 must submit to the Division a 1:24,000 scale U.S.G.S. topographic map which shows the local government's corporate
- 9 and extraterritorial jurisdiction boundaries, the Commission's adopted critical and protected area boundaries, as well
- 10 as the local government's interpreted critical and protected area boundaries. All revisions (expansions or deletions) to
- 11 these areas must be submitted to the Division and approved by the Commission prior to local government revision.
- 12 (p) Local governments shall encourage participation in the Agricultural Cost Share Program. The Soil and Water
- 13 Conservation Commission is the designated management agency responsible for implementing the provisions of the
- 14 rules in 15A NCAC 2H .0200 pertaining to agricultural activities. Agricultural activities are subject to the provisions
- 15 of the Food Security Act of 1985 and the Food, Agriculture, Conservation and Trade Act of 1990 (Public Law
- 16 101-624) and 15A NCAC 2H .0217) The following shall be required within WS I watersheds and the critical areas of
- 17 WS II, WS III and WS IV watersheds:
- 18
 (1)
 Agricultural activities conducted after January 1, 1993 shall maintain a minimum 10 foot vegetated

 19
 buffer, or equivalent control as determined by the Soil and Water Conservation Commission, along

 20
 all perennial waters indicated on the most recent versions of U.S.G.S. 1:24,000 (7.5 minute) scale

 21
 topographic maps or as determined by local government studies; and
- 22 (2)[(i)](j) Animal operation deemed permitted and permitted under 15A NCAC 2H .0217 2T .1300 are allowed in
 23 all classified water supply watersheds.
- 24 (g) Existing development is not subject to the requirements of these Rules. Redevelopment is allowed if the rebuilding activity does not have a net increase in built upon area or provides equal or greater stormwater control than the 25 previous development, except that there are no restrictions on single family residential redevelopment. Expansions to 26 27 structures classified as existing development must meet the requirements of the rules in 15A NCAC 2B .0100, .0200 28 and .0300; however, the built upon area of the existing development is not required to be included in the density 29 calculations. Expansions to structures other than existing development must meet the density requirements of these 30 Rules for the entire project site. If a nonconforming lot of record is not contiguous to any other lot owned by the same 31 party, then that lot of record shall not be subject to the development restrictions of these Rules if it is developed for single family residential purposes. Local governments may, however, require the combination of contiguous 32 nonconforming lots of record owned by the same party in order to establish a lot or lots that meet or nearly meet the 33 development restrictions of the rules under 15A NCAC 2B. Any lot or parcel created as part of a family subdivision 34 after the effective date of these Rules shall be exempt from these Rules if it is developed for one single family detached 35 residence and if it is exempt from local subdivision regulation. Any lot or parcel created as part of any other type of 36 37 subdivision that is exempt from a local subdivision ordinance shall be subject to the land use requirements (including

1	impervious surfa	ace requirements) of these Rules, except that such a lot or parcel must meet the minimum buffer			
2	requirements to the maximum extent practicable. Local governments may also apply more stringent controls relating				
3	to determining existing development, redevelopment or expansions.				
4	(r) Development activities may be granted minor variances by local governments utilizing the procedures of G.S.				
5	153A Article 18	, or G.S. 160A, Article 19. A description of each project receiving a variance and the reason for			
6	granting the vari	ance shall be submitted to the Commission on an annual basis by January 1. For all proposed major			
7	and minor varian	nces from the minimum statewide watershed protection rules, the local Watershed Review Board shall			
8	make findings of	f fact showing that:			
9	(1)	there are practical difficulties or unnecessary hardships that prevent compliance with the strict letter			
10		of the ordinance;			
11	(2)	the variance is in harmony with the general purpose and intent of the local watershed protection			
12		ordinance and preserves its spirit; and			
13	(3)	in granting the variance, the public safety and welfare have been assured and substantial justice has			
14		been done.			
15	The local Water	shed Review Board may attach conditions to the major or minor variance approval that support the			
16	purpose of the lo	cal watershed protection ordinance. If the variance request qualifies as a major variance, and the local			
17	Watershed Review Board decides in favor of granting the major variance, the Board shall then prepare a preliminary				
18	record of the hearing and submit it to the Commission for review and approval. If the Commission approves the major				
19	variance or approves with conditions or stipulations added, then the Commission shall prepare a Commission decision				
20	which authorizes the local Watershed Review Board to issue a final decision which would include any conditions or				
21	stipulations added by the Commission. If the Commission denies the major variance, then the Commission shall				
22	prepare a Comm	ission decision to be sent to the local Watershed Review Board. The local Watershed Review Board			
23	shall prepare a i	final decision denying the major variance. For all proposed major and minor variances the local			
24	government con	sidering or requesting the variance shall notify and allow a reasonable comment period for all other			
25	local governmen	ts having jurisdiction within the watershed area governed by these Rules and the entity using the			
26	water supply for	consumption. Appeals from the local government decision on a major or minor variance request are			
27	made on certiora	ari to the local Superior Court. Appeals from the Commission decision on a major variance request			
28	are made on jud	icial review to Superior Court. When local ordinances are more stringent than the state's minimum			
29	water supply pro	tection rules a variance to the local government's ordinance is not considered a major variance as long			
30	as the result of th	ne variance is not less stringent than the state's minimum requirements.			
31	(s) Cluster deve	lopment is allowed on a project by project basis as follows:			
32	(1)	Overall density of the project meets associated density or stormwater control requirements under			
33		15A NCAC 2B .0200;			
34	(2)	Buffers meet the minimum statewide water supply watershed protection requirements;			
35	(3)	Built upon areas are designed and located to minimize stormwater runoff impact to the receiving			
36		waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated			
37		areas, and maximize the flow length through vegetated areas;			

- 1
 (4)
 Areas of concentrated density development are located in upland areas and away, to the maximum

 2
 extent practicable, from surface waters and drainageways;
- 3 (5) Remainder of tract to remain in vegetated or natural state;
- 4 (6) The area in the vegetated or natural state may be conveyed to a property owners association; a local
 5 government for preservation as a park or greenway; a conservation organization; or placed in a
 6 permanent conservation or farmland preservation easement. A maintenance agreement shall be filed
 7 with the property deeds; and
- 8
 (7)
 Cluster developments that meet the applicable low density requirements shall transport stormwater

 9
 runoff by vegetated conveyances to the maximum extent practicable.

(t) Local governments may administer oversight of future development activities in single family residential developments that exceed the applicable low density requirements by tracking dwelling units rather than percentage built upon area, as long as the wet detention pond or other approved stormwater control system is sized to capture and treat runoff from all pervious and built upon surfaces shown on the development plan and any off site drainage from pervious and built upon surfaces, and when an additional safety factor of 15 percent of built upon area of the project

- 15 site is figured in.
- 16 (u) All new development shall meet the development requirements on a project by project basis except local

17 governments may submit ordinances and ordinance revisions which use density or built upon area criteria averaged

18 throughout the local government's watershed jurisdiction instead of on a project by project basis within the watershed.

19 Prior to approval of the ordinance or amendment, the local government must demonstrate to the Commission that the

20 provisions as averaged meet or exceed the statewide minimum requirements, and that a mechanism exists to ensure

21 the orderly and planned distribution of development potential throughout the watershed jurisdiction.

22 (v) Silviculture activities are subject to the provisions of the Forest Practices Guidelines Related to Water Quality

23 (15A NCAC 11.0101 .0209). The Division of Forest Resources is the designated management agency responsible

24 for implementing the provisions of the rules in 15A NCAC 2B .0200 pertaining to silviculture activities.

25 (w) Local governments shall, as the existing laws allow, develop, implement, and enforce comprehensive nonpoint

26 source and stormwater discharge control programs to reduce water pollution from activities within water supply

- 27 watersheds such as development, forestry, landfills, mining, on site sanitary sewage systems which utilize ground
- 28 adsorption, toxic and hazardous materials, transportation, and water based recreation.
- 29 (x) When the Commission assumes a local water supply protection program as specified under G.S. 143-214.5(e) all
- 30 local permits authorizing construction and development activities as regulated by the statewide minimum water supply
- 31 watershed protection rules of this Subchapter must be approved by the Commission prior to local government issuance.
- 32 (y) In the event that stormwater management systems or facilities may impact existing waters or wetlands of the
- 33 United States, the Clean Water Act requires that these systems or facilities be consistent with all federal and state
- 34 requirements.
- 35 (z) A model local water supply watershed management and protection ordinance, as approved by the Commission in
- 36 accordance with G.S. 143-214.5, is on file with the Office of Administrative Hearings and may be obtained by writing

- 1 to: Water Quality Planning Branch, Division of Environmental Management, Post Office Box 29535, Raleigh, North
- 2 Carolina 27626-0535.
- 3 (aa) The Commission may delegate such matters as variance approval, extension of deadlines for submission of
- 4 corrected ordinances and assessment of civil penalties to the Director.
- 5 [(+)](k) Local government water supply watershed ordinances for water supply classified watersheds shall be
- 6 implemented in accordance with Rules .0620 through .0624 of this Subchapter.
- 7
 8 History Note: Authority G.S. 143-214.1; 143-215.3(a)(1);
 9 Eff. February 1, 1976;
 10 Amended Eff. August 1, 1995; August 3, 1992; March 1, 1991; October 1, 1989. <u>1989</u>;
 11 <u>Readopted Eff. September 1, 2019.</u>

1	15A NCAC 02B	.0106 is	repealed through readoption as published	1 in 32:22 NCR 2411-2493	as follow	/s:
2						
3	15A NCAC 02B	.0106	CONSIDERATIONS/ASSIGNING	CLASSIFICATIONS	FOR	PRIMARY
4			RECREATION			
5						
6	History Note:	Authori	ty G.S. 143-214.1; 143-215.3(a)(1);			
7		Eff. Fel	pruary 1, 1976;			
8		Amende	ed Eff. October 1, 1989; January 1, 1985;	; September 9, 1979. <u>1979;</u>		
9		<u>Repeale</u>	ed Eff. September 1, 2019.			

1	15A NCAC 02B	.0108 is	s repealed through readopti	on as j	published in 32:22	NCR 24	11-2493 as follows:	
2								
3	15A NCAC 02B	6.0108	CONSIDERATIONS	IN	ASSIGNING	THE	SHELLFISHING	AREA
4			CLASSIFICATION					
5								
6	History Note:	Author	ity G.S. 143-214.1;					
7		Eff. Ja	nuary 1, 1985;					
8		Amena	led Eff. October 1, 1989. <u>19</u>	9 <u>89;</u>				
9		<u>Repeat</u>	led Eff. September 1, 2019.					

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0110

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE</u>: 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 call our office to inquire concerning the staff recommendation.

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

Much of lines 5-10 appear to be unnecessary as they do not provide a directive. Please review and revise as necessary.

On lines 11-14, delete "The Commission shall apply" and say something like "Rules .0225 and .0227 of this Subchapter shall apply to the development of site-specific strategies to maintain...." Here, I don't think that you are intending to tell the Commission what to do. Rather, you are providing a directive and/or information to your regulated public.

On line 17, what are "other actions within its authority"? Can you provide some examples? Perhaps a cross-reference to a rule or statute?

15A NCAC 02B .0110 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

3 15A NCAC 02B.0110 CONSIDERATIONS FOR FEDERALLY-LISTED THREATENED OR 4 ENDANGERED AQUATIC SPECIES

5 Certain waters provide habitat for federally-listed aquatic animal species that are listed as threatened or endangered 6 by the U.S. Fish and Wildlife Service or National Marine Fisheries Service under the provisions of the Endangered 7 Species Act, 16 U.S.C. 1531-1544 and subsequent modifications. Maintenance and recovery of the water quality 8 conditions required to sustain and recover federally-listed threatened and endangered aquatic animal species 9 contributes to the support and maintenance of a balanced and indigenous community of aquatic organisms and thereby 10 protects the biological integrity of the waters. The Division shall develop site specific management strategies under the provisions of 15A NCAC 2B .0225 or 15A NCAC 2B .0227 for those waters. The Commission shall apply 11 12 requirements set forth in [utilize] Rule .0225 or .0227 of this Subchapter for the development of site-specific [site 13 specific] strategies to maintain or recover the water quality conditions required to sustain and recover federally-listed 14 threatened or endangered aquatic animal species. [for those waters.] These plans shall be developed within the 15 basinwide planning schedule with all plans completed at the end of each watershed's first complete five year cycle 16 following adoption of this Rule. Nothing in this Rule shall prevent the Division or EMC Commission from taking 17 other actions within its authority to maintain and restore the quality of these waters. 18 19 Authority G. S. 143-214.1; 143-215.3(a)(1); 143-215.8A; History Note: 20 Eff. August 1, 2000. 2000; 21 Readopted Eff. September, 2019.

22

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0201

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Overall, I think that this Rule could be more clear as to what it is doing and when it will be applicable. At the same time, some of this Rule appears to be unnecessary as it repeats either statute or 40 CFR 131.12. Please review and revise as necessary.

Please delete the first sentence of (a) as it is a direct recitation of 143-215.22L(t). Please also delete "Pursuant to this policy" and simply begin the next sentence with "The requirements of 40 CFR.." If you feel like you need some additional information to say when the CFR will be applicable, please do so without the word "policy."

In (a), please also delete the last paragraph, lines 11-12 ("These requirements shall be implemented..." This language appears to be unnecessary. If you need some form of this language to comply with federal standards, please say "this Rule", as opposed to listing out each individual Paragraph."

With my comments regarding (a) above in mind, would it make sense to combine (a) and the first sentence in (b)? They appear to be addressing the same thing.

In (b), delete "properly" in "properly classifying"

In (b), line 14, delete "to protect such uses" you've already said that "The commission shall protect existing uses" on line 13.

On line 16, delete "which shall affects" and say "that affects"

On lines 16-17, what are "these waters"?

By lines 16-17, do you mean something like "In cases where the Commission determines that an existing use is not included in the

Amber May Commission Counsel Date submitted to agency: July 30, 2019 classification of waters in accordance with Rule .0101(b)(1) of this Subchapter, a project shall not permitted unless the existing uses are protected"? So, I'm reading this to say that even if existing uses aren't included in the classification, folks have to protect them anyway? Does this somehow go with (c)? Please review and clarify.

In (c), consider deleting line 21-22, "waters with quality higher than the standards are defined by Rule .0202 of this Section."

In (c), line 23, what are "these requirements"? Do you mean "this Paragraph"? "This Rule"?

In (c)(3), I don't read 40 CFR 131.12 to require "supplemental documentation." Here, do you mean something like "The Division may require supplemental documentation from an affected local government to show that a proposed project or parts of the project are necessary for important economic and social development under 40 CFR 131.12"?

In (c)(3), what is "an affected local government"

In (c)(4), consider changing "shall have the option to" to "may"

On line 35, delete or define "appropriate"

In (d), why are they making this consideration? In determining what? (d) seems to be missing something. Are they considering the present and anticipated uses in determining how much degradation is okay?

In (e), what is meant by lines 18-19, I read this to say "ORS shall be maintained, such that existing uses... shall be maintained and protected." I don't understand the use of "maintained" twice. Also, should the "shall be" be an "is" in "shall be maintained"? Here, do you mean something like "shall be maintained

In (f), line 23, what are "these procedures"? Do you mean "in accordance with this Paragraph"?

In (f), what is the intent of lines 23-24? I don't understand what's going on here.

How do lines 24-27 go with the rest of (f)? This Paragraph appears to have a lot of unrelated information thrown together. I recognize that it's possible that's not accurate and I simply don't understand this process well enough, but please review and clarify if needed.

15A NCAC 02B .0201 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

- 3 15A NCAC 02B .0201
- ANTIDEGRADATION POLICY
- 4 (a) It is the policy of the Environmental Management Commission to maintain, protect, and enhance water quality

5 within the State of North Carolina. Pursuant to this policy, the requirements of 40 CFR 131.12 are hereby incorporated 6 by reference including any subsequent amendments and editions. This material is available for inspection at the

- 7
- Department of Environment, Health, Environmental Quality, and Natural Resources, Division of Water Quality,
- 8 Resources, Water Quality Section, 512 North Salisbury Street, Raleigh, North Carolina. Carolina, 27604-1170. Copies 9 may be obtained from the U.S. Government Printing Office, Superintendent of Documents, Washington, DC
- 10 20402 9325 at a cost of thirteen dollars (\$13.00). A copy of the most current version of 40 CFR 131.12 is available
- 11 free of charge on the internet at http://www.gpo.gov/fdsys/. These requirements shall be implemented in North
- 12 Carolina as set forth in Paragraphs (b), (c), (d), (e) and (f) of this Rule.
- 13 (b) Existing The Commission shall protect existing uses, as defined by Rule .0202 of this Section, and the water
- 14 quality to protect such uses shall be protected by properly classifying surface waters and having standards sufficient

15 to protect these uses. In cases where the Commission or its designee determines in accordance with Rule .0101(b)(1)

- 16 of this Subchapter that an existing use is not included in the classification of waters, a project which shall affect these
- 17 waters shall not be permitted unless the existing uses are protected.
- 18 (c) The Commission shall consider the present and anticipated usage of waters with quality higher than the standards,
- 19 including any uses not specified by the assigned classification (such as outstanding national resource waters or waters 20 of exceptional water quality), and shall not allow degradation of the quality of waters with quality higher than 21 the standards below the water quality necessary to maintain existing and anticipated uses of those waters. Waters with 22 quality higher than the standards are defined by Rule .0202 of this Section. The following procedures shall be
- 23 implemented in order to meet these requirements:
- 24 (1)Each applicant for an NPDES National Pollutant Discharge Elimination System (NPDES) permit 25 or NPDES permit expansion to discharge treated waste shall document an effort to consider 26 non-discharge alternatives <u>considered</u> pursuant to 15A NCAC 2H 02H .0105(c)(2).
- 27 (2)Public Notices for NPDES permits shall list parameters that would be water quality limited and state 28 whether or not the discharge shall will use the entire available load capacity of the receiving waters 29 and may may, as a result, cause more stringent water quality based effluent limitations to be 30 established for dischargers downstream.
- The In compliance with 40 CFR 131.12, the Division may require supplemental documentation from 31 (3) 32 the affected local government that a proposed project or parts of the project are necessary for 33 important economic and social development.
- 34 (4)Local governments shall have the option to work with the The Commission and Division shall work 35 with local governments on a voluntary basis to identify and develop appropriate management 36 strategies or classifications for waters with unused pollutant loading capacity to accommodate future 37 economic growth.

1 Waters with quality higher than the standards shall be identified by the Division on a case-by-case basis through the 2 NPDES permitting and waste load allocation processes (pursuant processes, pursuant to the provisions of 15A NCAC 3 2H .0100). 02H .0100. Dischargers affected by the requirements of Paragraphs [Subparagraphs] (c)(1) through (c)(4) 4 of this Rule this Paragraph and the public at large shall be notified according to the provisions described herein, herein 5 and all other appropriate provisions pursuant to 15A NCAC 2H 02H .0109. If an applicant objects to the requirements 6 to protect waters with quality higher than the standards and believes degradation is necessary to accommodate 7 important social and economic development, the applicant may contest these requirements according to the provisions 8 of General Statute G.S. 143-215.1(e) and 150B-23. 9 (d) The Commission shall consider the present and anticipated usage uses of High Quality Waters (HQW), including 10 any uses not specified by the assigned classification (such as outstanding national resource waters or waters of 11 exceptional water quality) and shall not allow degradation of the quality of High Quality Waters below the water 12 quality necessary to maintain existing and anticipated uses of those waters. High Quality Waters are a subset of waters 13 with quality higher than the standards and are as described by 15A NCAC 2B .0101(e)(5). The procedures described in pursuant to Rule .0224 of this Section Section. shall be implemented in order to meet the requirements of this part. 14 15 [Rule.] (c) Outstanding Resource Waters (ORW) are a special subset of High Quality Waters with unique and special 16 characteristics as described in Rule .0225 of this Section. The water quality of waters classified as ORW Outstanding 17 18 Resource Waters (ORW), as described in Rule .0225 of this Section, shall be maintained such that existing uses, 19 including the outstanding resource values of said Outstanding Resource Waters, shall be maintained and protected. (f) Activities regulated under Section 404 of the [Federal] federal Clean Water Act (33 U.S.C. 1344) 33 U.S.C. 1344 20 21 which that require a water quality certification as described in Section 401 of the [Federal] federal Clean Water Act 22 (33 U.S.C. 1341) 33 U.S.C. [1344] 1341 shall be evaluated according to the procedures outlined in 15A NCAC 2H 23 <u>02H</u> .0500. Activities which that receive a water quality certification pursuant to these procedures shall not be 24 considered to remove existing uses. The evaluation of permits issued pursuant to G.S. 143-215.1 that involve the 25 assimilation of wastewater or stormwater by wetlands shall incorporate the criteria found in 15A NCAC 2H 02H 26 $\frac{10506(c)(1)}{(5)}$.0506(c)(1) through (5) in determining the potential impact of the proposed activity on the existing uses of the wetland per as described in 15A NCAC 2H .0231. Rule [.0231].0231(a) of this Section. 27 28 29 Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); History Note: 30 Eff. February 1, 1976; 31 Amended Eff. October 1, 1995; August 1, 1995; February 1, 1993; April 1,1991; August 1, 1990; 32 RRC Objection Eff. July 18, 1996 due to lack of statutory authority and ambiguity; 33 Amended Eff. October 1, 1996. 1996; 34 Readopted Eff. September 1. 2019.

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0202

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

In Item (3), I don't see "agricultural uses" in used elsewhere in your Rules. Do you mean "agriculture activities"?

In Item (4), please change to read a consumer or client or to land they <u>own, lease</u>, own or to land which that they lease or otherwise hold rights.

In Item (5), what is meant by "accepted as satisfactory"? How is this determined? I assume something like "in accordance with the applicable Rules"?

In Item (6), I don't see "attainable uses" used elsewhere in your Rules. Here, do you mean to define "attainable"?

In Item (6), delete or define cost-effective and "reasonable"

In item (7), you've excluded "bacterial", but what if it is "bacterial"?

In Item (7), generally, we try to avoid defining a word with that same word. Is there a way around it here?

In item (7), what are "prevailing conditions"?

In Item (9), do you also want to include a cross-reference to the appropriate rules?

In Item (12), what are "reference conditions"?

Please consider breaking Item (14) into a list. Also, what is meant by "longterm exposure", "substantial", in "substantial portion" and "extended" in "extended period of exposure"?

In Item (18), where can these maps be found? Are these available online?

Amber May Commission Counsel Date submitted to agency: July 30, 2019 In Item (19), delete "from" in "than from the"

Is there a federal cross-reference available for Item (21) with regard to the approval by the EPA?

In (26), delete or define "discernable" and "discrete"

In (27), delete or define "significant"

In Item (28), change "which" to "that" in "which is used"

In Item (28), delete or define "primarily"

In (30), change "which" to "that" in "which grow"

In (30), is it necessary to say "disturbed or undisturbed conditions"? Does it not read the same without this language?

In (30), I assume that "mature and successional forests" are a term of art?

In (32)(a), remove the comma after "manufacture"

In (38), please begin "zones shall be" as a new sentence, and delete "and such."

In (40), delete "mainly"

In (40), line 22, change "which" to "that" in "which are not required"

In (42), delete "shall either directly or indirectly" so that it reads "that cause foul..."

In (42), what is meant by "foul or noxious odors, unsightly conditions, or breeding of abnormally large quantities of mosquitoes"? Does your regulated public know?

In Item (43), delete or define "full" in "full human body" and "frequent" in "frequent basis"

In Item (44), what is meant by "essential habitat"? Is this a term of art? If not, delete or define "essential"

In (45), protection measures are required by what? The Rules? The Permit?

In Item (49), what is meant by "infrequent, unorganized, or incidental basis." Note that if this issue is addressed in (43), this language may be okay.

In (55), change "which" to "that" in "which are"

Amber May Commission Counsel Date submitted to agency: July 30, 2019 In (56), what is "approved treatment"? Is there a cross-reference available?

In (57), change "whose use requires" to "that require"

In (57), delete or define "basic" in "basic purpose"

In (58), you've defined BMPs elsewhere. Why is it included in this definition?

In (59), delete or define "sufficiently" and "sufficient" on line 3.

In (59), delete "still"

Do you need Item (60)? You've already said that all of the definitions in Article 21 apply and "watershed is defined by Article 21. If you do need this, why not just say something like "means the same as set forth in 143-213(21)."

In (61), what are "normal circumstance"? Is this a term of art?

On line 17, please add "which is hereby incorporated by reference" and say whether you are including subsequent amendments and editions.

What is the intent of Item (62)? Do you need this language since this is already defined by statute?

15A NCAC 02B .0202 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

3	15A NCAC 02B	.0202	DEFINITIONS		
4	The definition of	any wo	rd or phrase used in this Section shall be the same as given in G.S. 143, Article 21. The		
5	following words a	and phra	ses, which are not defined in this article, shall be interpreted as follows:		
6	(1)	Acute "	Acute toxicity to aquatic life life" means lethality or other harmful effects sustained by either		
7		resident	aquatic populations or indicator species used as test organisms in a controlled toxicity test		
8		due to a	a short-term exposure (relative to the life cycle of the organism) of 96 hours or less to a		
9		specific	chemical or mixture of chemicals (as in an effluent). Short term exposure for acute tests is		
10		general	l y 96 hours or less. Acute toxicity shall be determined using the following procedures:		
11		(a)	for specific chemical constituents or compounds, acceptable levels shall be equivalent to a		
12			concentration of one-half or less of the Final Acute Value (FAV) as determined according		
13			to "Guidelines for Deriving Numerical Water Quality Criteria for the Protection of Aquatic		
14			Life and its Uses" published by the Environmental Protection Agency and referenced in		
15			the Federal Register (50 FR 30784, July 29, 1985) which is hereby incorporated by		
16			reference including any subsequent amendments. amendments and editions.		
17		(b)	for specific chemical constituents or compounds for which values described under		
18			Subparagraph Sub-Item (1)(a) (a) of this Rule Item cannot be determined, acceptable levels		
19			shall be equivalent to a concentration of one-third or less of the lowest available LC50		
20			value.		
21		(c)	for effluents, acceptable levels are shall be defined as no statistically measurable lethality		
22			(99 percent confidence level using <mark>Students t</mark> test) [test),] <u>Student's t-test)</u> [a LC50>100%,		
23			or a No Observed Adverse Effect Concentration,] during a specified exposure period.		
24			Concentrations of exposure [and critical values for the No Observed Adverse Effect		
25			Concentration] shall be determined on a case by case basis. based on permit requirements		
26			and procedures in accordance with 15A NCAC 02H .1110.		
27		(d)	in instances where detailed dose response data indicate that levels of acute toxicity are		
28			significantly different from those defined in this Rule, the Director may determine on a		
29			case-by-case basis an alternate acceptable level through statistical analyses of the dose		
30			response curve. in accordance with 15A NCAC 02H .1110.		
31	(2)	Acute "	Acute to Chronic Ratio (ACR) Ratio" or "ACR" means the ratio of acute toxicity expressed		
32		as an LO	C50 for a specific toxicant or an effluent to the chronic value for the same toxicant or effluent.		
33	(3)	Agricul	tural uses include "Agricultural uses" means the use of waters for stock watering, irrigation,		
34		and oth	er farm purposes.		
35	(4)	Applica	tor <u>"Applicator"</u> means any person, firm, corporation, wholesaler, retailer, or distributor,		
36		<u>distribu</u>	tor; any local, state, or federal governmental agency, agency; or any other person who		
1		applies fertilizer to the land of a consumer or client or to land they own or to land which they			
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2		lease or otherwise hold rights.			
3	(5)	Approved treatment, "Approved treatment," as applied to water supplies, means treatment accept			
4		as satisfactory by the Division of Environmental Health or Division of Water Quality. <u>Resources.</u>			
5	<u>(6)</u>	[Attainable uses are] "Attainable uses" means uses that can be achieved by the imposition of effluent			
6		limits and cost effective and reasonable best management practices (BMP) for nonpoint source			
7		<u>control.</u>			
8	(6) (<u>7</u>)	Average "Average" (except bacterial) means the arithmetical average and includes [consists] of the			
9		analytical results of all <u>representative</u> samples taken <u>under prevailing conditions</u> during the <u>a</u>			
10		specified period <u>(for example: daily, weekly, or <mark>[monthly);</mark>] monthly). all sampling shall be done as</u>			
11		to obtain the most [<mark>a</mark>] <mark>representative sample under prevailing</mark> conditions: [conditions.]			
12		(a) Daily Average for dissolved oxygen, shall be of at least four samples;			
13		(b) Weekly Average means the average of all daily composite samples obtained during the			
14		calendar week. If only one grab sample is taken each day, the weekly average is the average			
15		of all daily grab samples. A minimum of three daily grab samples is needed to calculate a			
16		weekly average.			
17		(c) Monthly Average means the average of all daily composites (or grab samples if only one			
18		per day) obtained during the calendar month.			
19	The definitions in	n this Paragraph do not affect the monitoring requirements for NPDESpermits but rather shall be used			
20	by the Division	along with other methodologies in determining violations of water quality standards. Arithmetical			
21	averages as defin	ned by this Section, and not confidence limits nor other statistical descriptions, shall be used in all			
22	calculations of li	mitations which require the use of averages pursuant to this Section and 40 CFR 122.41(1)(4)(iii).			
23	(7)<u>(8)</u>	Best "Best Management Practice (BMP) Practice" or "BMP" means a structural or nonstructural			
24		management-based practice used singularly or in combination to reduce nonpoint source inputs to			
25		receiving waters in order to achieve water quality protection goals.			
26	(8)<u>(9)</u>	Best usage "Best usage" or "Best use" of waters waters, as specified for each elass class, means			
27		those uses as determined by the Environmental Management Commission in accordance with the			
28		provisions of G.S. 143-214.1.			
29	(9) (<u>10</u>)	Bioaccumulation factor (BAF) is "Bioaccumulation factor" or "BAF" means a unitless value that			
30		describes the degree to which substances are taken up or accumulated into tissues of aquatic			
31		organisms from water directly and from food or other ingested materials containing the accumulated			
32		substances, and is usually measured as a ratio of a substance's concentration in tissue versus its			
33		concentration in water in situations where exposure to the substance is occurring occurs from both			
34		water and the food chain.			
35	(10) (<u>11</u>)) Bioconcentration factor (BCF) is "Bioconcentration factor" or "BCF" means a unitless value that			
36		describes the degree to which substances are absorbed or concentrated into tissues of aquatic			
37		organisms from water directly and is usually measured as a ratio of substance's concentration in			

1	tissue versus its concentration in water in situations where exposure to the substance is occurring	<mark>ig</mark>
2	occurs from water only.	-
3	$\frac{(11)(12)}{\text{Biological integrity}}$ "Biological integrity" means the ability of an aquatic ecosystem to support an	ıd
4	maintain a balanced and indigenous community of organisms having species composition, diversit	y,
5	population densities densities, and functional organization similar to that of reference conditions.	
6	$\frac{(12)(13)}{\text{Buffer}}$ "Buffer" means a natural or vegetated area through which stormwater runoff flows in	a
7	diffuse manner so that the runoff does not become channelized and which provides for infiltration	on
8	of the runoff and filtering of pollutants. The buffer shall be measured landward from the norm	al
9	pool elevation of impounded structures and from the bank of each side of streams or rivers.	
10	(13) Built upon area means that portion of a development project that is covered by impervious	ər
11	partially impervious cover including buildings, pavement, gravel areas (e.g. roads, parking lot	s,
12	paths), recreation facilities (e.g. tennis courts), etc. (Note: Wooden slatted decks and the water and	за
13	of a swimming pool are considered pervious.)	
14	(14) Chronic <u>"Chronic</u> toxicity to aquatic life <u>life"</u> means any harmful effect sustained by either reside	nt
15	aquatic populations or indicator species used as test organisms in a controlled toxicity test due	to
16	long-term exposure (relative to the life cycle of the organism) or exposure during a substanti	al
17	portion of the duration of a sensitive period of the life cycle to a specific chemical substance	ər
18	mixture of chemicals (as in an effluent). In absence of extended periods of exposure, early life stag	ge
19	or reproductive toxicity tests may be used to define chronic impacts.	-
20	(15) Chronic value for aquatic life life means the geometric mean of two concentration	ns
21	identified in a controlled toxicity test as the No Observable Effect Concentration (NOEC) and the	ne
22	Lowest Observable Effect Concentration (LOEC).	
23	(16) Cluster development means the grouping of buildings in order to conserve land resources ar	ıd
24	provide for innovation in the design of the project including minimizing stormwater runoff impact	s.
25	This term includes nonresidential development as well as single family residential and multi fami	ly
26	developments. For the purpose of Sections .0100, .0200 and .0300 of this Subchapter, planned ur	nit
27	developments and mixed use development shall be considered as cluster development.	
28	(17)(16) Commercial applicator "Commercial applicator" means any person, firm, corporation, wholesale	r,
29	retailer, distributor <u>distributor.</u> or any other person who for hire or compensation applies fertiliz	er
30	to the land of a consumer or client.	
31	(18)(17) Concentrations are "Concentration" means the mass of a substance per volume of water and and, f	or
32	the purposes of this Section Section, shall be expressed as milligrams per liter (mg/l), microgram	ns
33	per liter (ug/l), or nanograms per liter (ng/l).	
34	(19)(18) Contiguous refers to "Contiguous" means those wetlands landward of the mean high water line	or
35	normal water level and within 575 feet of classified surface waters which that appear as solid blue	ıe
36	lines on the most recently published versions of U.S.G.S. 1:24,000 (7.5 minute) scale topograph	ic
37	maps.	

1	(20)(19) Critical area "Critical area" means the area adjacent to a water supply intake or reservoir where risk
2	associated with pollution is greater than from the remaining portions of the watershed. The
3	boundary of a critical area is defined as as:
4	(a) extending either 1/2 mile in a straight line fashion upstream from and draining to the normal
5	pool elevation of the reservoir in which the intake is located or to the ridge line of the
6	watershed (whichever comes first); watershed, whichever is nearest the normal pool
7	elevation of the reservoir; or
8	(b) extending either 1/2 mile in a straight line fashion upstream from and draining to the intake
9	(or other appropriate downstream location associated with the water supply) located
10	directly in the stream or river (run-of-the-river), (run-of-the-river) or to the ridge line of the
11	watershed (whichever comes first). watershed, whichever is nearest the intake; or Since
12	WS I watersheds are essentially undeveloped, establishment of a critical area is not
13	required. Local governments may extend the critical area as needed. Major landmarks such
14	as highways or property lines may be used to delineate the outer boundary of the critical
15	area if these landmarks are immediately adjacent to the appropriate outer boundary of 1/2
16	mile.
17	(c) extending a different distance from the reservoir or intake as adopted by the The
18	Commission may adopt a different critical area size during the reclassification process.
19	process pursuant to Rule .0104 of this Subchapter.
17	
20	Since WS-I watersheds are essentially undeveloped, establishment of a critical area is not required.
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20 21 22 23 24 25 26 27 28 29 30 31 32 33 34	 Since WS-I watersheds are essentially undeveloped, establishment of a critical area is not required. (21)(20) Cropland "Cropland" means agricultural land that is not covered by a certified animal waste management plan and is used for growing corn, grains, oilseed crops, cotton, forages, tobacco, beans, or other vegetables or fruits. (22)(21) Designated "Designated Nonpoint Source Agency" means those-agencies an agency specified by the Governor in the North Carolina Nonpoint Source Management Program, as approved by the Environmental Protection Agency. (23) Development means any land disturbing activity which adds to or changes the amount of impervious or partially impervious cover on a land area or which otherwise decreases the infiltration of precipitation into the soil. (24)(22) Director "Director" means the Director of the Division of Water Quality. [Resources.] Division. (25)(23) Discharge is "Discharge" means the addition of any man-induced waste effluent either directly or indirectly to state State surface waters. (26)(24) Division "Division" means the Division of Water Quality Resources or its successors. (27)(25) Domestie "Domestie wastewater discharge discharge" means the discharge of sewage, non-process

1	ť	assembly assembly, even if it contains no sewage. Examples of domestic wastewater include				
2	(once-through non-contact cooling water, seafood packing facility discharges discharges, and				
3	v	wastewater from restaurants.				
4	(28)(26)	Effluent channel "Effluent channel" means a discernable confined and discrete conveyance which				
5	<u>1</u>	<u>that</u> is used for transporting treated wastewater to a receiving stream or other body of water water.				
6	á	as provided in Rule .0215 .0228 of this Section.				
7	(29) 1	Existing development, for projects that do not require a state permit, shall be defined as those				
8	t	projects that are built or those projects that at a minimum have established a vested right under North				
9	4	Carolina zoning law as of the effective date of the local government water supply ordinance, or such				
10	e	earlier time that an affected local government's ordinances shall specify, based on at least one of the				
11	ŧ	following criteria:				
12	((a) substantial expenditures of resources (time, labor, money) based on a good faith reliance				
13		upon having received a valid local government approval to proceed with the project, or				
14		(b) having an outstanding valid building permit in compliance with G.S. 153A-344.1 or G.S.				
15		160A-385.1, or				
16	÷	(c) having an approved site specific or phased development plan in compliance with G.S.				
17		153A-344.1 or G.S. 160A-385.1.				
18	1	For projects that require a state permit, such as landfills, NPDES wastewater discharges, land				
19	ŧ	application of residuals and road construction activities, existing development shall be defined as				
20	ŧ	those projects that are built or those projects for which a state permit was issued prior to August 3,				
21	÷	1992.				
22	(30)<u>(</u>27)	Existing uses "Existing uses" mean uses actually attained in the water body, in a significant and not				
23	i	incidental manner, on or after November 28, 1975, whether or not they are included in the water				
24	C	quality standards, which either have been actually available to the public or are uses deemed				
25	ŧ	attainable by the Environmental Management Commission. At a minimum, uses shall be deemed				
26	ŧ	attainable if they can be achieved by the imposition of effluent limits and cost effective and				
27	ł	reasonable best management practices (BMPs) for nonpoint source control. standards.				
28	(31)	Family subdivision means a division of a tract of land:				
29	((a) to convey the resulting parcels, with the exception of parcels retained by the grantor, to a				
30		relative or relatives as a gift or for nominal consideration, but only if no more than one				
31		parcel is conveyed by the grantor from the tract to any one relative; or				
32	÷	(b) to divide land from a common ancestor among tenants in common, all of whom inherited				
33		by intestacy or by will.				
34	(32)<u>(</u>28)	Fertilizer "Fertilizer" means any substance containing nitrogen or phosphorus which is used				
35	1	primarily for its as plant <mark>food content.</mark> <u>food.</u>				
36	(33)<u>(</u>29)	Fishing "Fishing" means the taking of fish by sport recreational or commercial methods methods.				
37	ť	as well as the consumption of fish or <mark>shellfish</mark> <u>shellfish,</u> or the propagation of <mark>fish</mark> fish, and such or				

1	the propagation of other aquatic life as is necessary to provide a suitable protect the biological
2	integrity of the environment for fish.
3	(34)(30) Forest vegetation "Forest vegetation" means the plants of an area which grow together in disturbed
4	or undisturbed conditions in various wooded plant communities in any combination of trees,
5	saplings, shrubs, vines vines, and herbaceous plants. This includes plants, including mature and
6	successional forests as well as <u>and</u> cutover stands.
7	(35)(31) Freshwater "Freshwater" means all waters that under natural conditions would have a chloride ion
8	content of 500 mg/l or less.
9	(36)(32) Industrial discharge "Industrial discharge" means the discharge of industrial process treated
10	wastewater or wastewater other than sewage. Stormwater shall not be considered to be an industrial
11	wastewater unless it is contaminated with industrial wastewater. Industrial discharge includes:
12	(a) wastewater resulting from any process of industry or manufacture, or from the development
13	of any natural resource;
14	(b) wastewater resulting from processes of trade or business, including wastewater from
15	laundromats and car washes, but not wastewater from restaurants; or and
16	(c) wastewater discharged from a municipal wastewater treatment plant requiring a
17	pretreatment program.
18	(37)(33) Land disturbing activity "Land-disturbing activity" means any use of the land that results in a change
19	in the natural cover or topography that may cause or contribute to sedimentation.
20	(38)(34) LC50 "LC50" means that concentration of a toxic substance which that is lethal (or immobilizing,
21	if appropriate) or immobilizing to 50 percent of the organisms sensitive aquatic toxicity testing
22	species tested during a specified exposure period, period, as required by NPDES permit, under
23	aquatic conditions characteristic of the receiving waters. The LC50 concentration for toxic materials
24	shall be determined for sensitive Sensitive species for aquatic toxicity testing is as defined by
25	Subparagraph (43)(50) of this Rule under aquatic conditions characteristic of the receiving waters.
26	Rule.
27	(39)(35) Local government "Local government" means a city or county in singular or plural as defined in
28	G.S. 160A-1(2) and G.S. 158A-10.
29	(40)(36) Lower "Lower piedmont and coastal plain waters mean waters" means those waters of the Catawba
30	River Basin below Lookout Shoals Dam; the Yadkin River Basin below the junction of the Forsyth,
31	Yadkin, and Davie County lines; and all of the waters of Cape Fear, Lumber, Roanoke, Neuse,
32	Tar-Pamlico, Chowan, Pasquotank, and White Oak River Basins; except tidal salt waters which are
33	assigned S classifications.
34	(41)(37) MF is an abbreviation for "MF" means the membrane filter procedure for bacteriological analysis.
35	(42) Major variance means a variance from the minimum statewide watershed protection rules that
36	results in the relaxation, by a factor greater than five percent of any buffer, density or built upon
37	area requirement under the high density option; any variation in the design, maintenance or

1		operation requirements of a wet detention pond or other approved stormwater management system;
2		or relaxation by a factor greater than 10 percent, of any management requirement under the low
3		density option.
4	(43)	Minor variance means a variance from the minimum statewide watershed protection rules that
5		results in a relaxation, by a factor of up to five percent of any buffer, density or built upon area
6		requirement under the high density option; or that results in a relaxation by a factor up to 10 percent,
7		of any management requirement under the low density option.
8	(44)<u>(</u>38)) Mixing zone "Mixing zone" means a region of the receiving water in the vicinity of a discharge
9		within which dispersion and dilution of constituents in the discharge occurs and such zones shall be
10		subject to conditions established in accordance with 15A NCAC 2B .0204(b). Rule .0204(b) of this
11		Section.
12	<u>(45)(39)</u>) Mountain "Mountain and upper piedmont waters mean waters" means all of the waters of the
13		Hiwassee; Little Tennessee, including the Savannah River drainage area; French Broad; Broad;
14		New; and Watauga River Basins; and those portions of the Catawba River Basin above Lookout
15		Shoals Dam and the Yadkin River Basin above the junction of the Forsyth, Yadkin, and Davie
16		County lines.
17	(46)	Nonconforming lot of record means a lot described by a plat or a deed that was recorded prior to the
18		effective date of local watershed regulations (or their amendments) that does not meet the minimum
19		lot size or other development requirements of Rule .0211 of this Subchapter.
20	(47)<u>(40</u>)) Nonpoint "Nonpoint source pollution pollution" means pollution which that enters waters mainly as
21		a result of precipitation and subsequent runoff from lands which that have been disturbed by man's
22		activities and includes all sources of water pollution which are not required to have a permit in
23		accordance with G.S. 143-215.1(c).
24	(48)<u>(</u>41)) Non process discharge "Non-process discharge" means industrial effluent not directly resulting
25		from the manufacturing process. An example would be is non-contact cooling water from a
26		compressor.
27	(49)	Nutrient sensitive waters mean those waters which are so designated in the classification schedule
28		in order to limit the discharge of nutrients (usually nitrogen and phosphorus). They are designated
29		by "NSW" following the water classification.
30	(50)<u>(42</u>)) Offensive condition "Offensive condition" means any condition or conditions resulting from the
31		presence of sewage, industrial wastes wastes, or other wastes within the waters of the state State or
32		along the shorelines thereof which that shall either directly or indirectly cause foul or noxious odors,
33		unsightly conditions, or breeding of abnormally large quantities of mosquitoes or other insect pests,
34		or shall pests: damage private or public water supplies or other structures, structures; result in the
35		development of gases which destroy or damage surrounding property, herbage or grasses, grasses;
36		or which may cause the impairment of taste, <u>taste</u> such as from fish flesh tainting, <u>tainting;</u> or affect
37		the health of any person residing or working in the area.

1	(51)(43) Primary Nursery Areas (PNAs) are tidal saltwaters which provide essential habitat for the early				
2	development of commercially important fish and shellfish and are so designated by the Marine				
3	Fisheries Commission. [Primary] "Primary contact [recreation includes] recreation" means				
4	swimming, diving, skiing, and similar uses involving full human body contact with water where				
5	such activities take place in an organized or on a frequent basis.				
6	(52)(44) Primary recreation includes swimming, skin diving, skiing, and similar uses involving human body				
7	contact with water where such activities take place in an organized or on a frequent basis. [Primary				
8	Nursery Areas (PNAs) are] "Primary nursery area" or "PNA" means tidal saltwaters [which] that				
9	provide essential habitat for the early development of commercially important fish and shellfish and				
10	are so designated by the Marine Fisheries Commission.				
11	(53)(45) Protected area "Protected area" means the area adjoining and upstream of the critical area in a				
12	WS-IV water supply in which protection measures are required. The boundaries of the boundary of				
13	<mark>a</mark> protected areas are <u>area is</u> defined as within as:				
14	(a) extending either five miles in an as-the-river-runs manner upstream from and draining to				
15	of the normal pool elevation of the reservoir in which the intake is located and draining to				
16	water supply reservoirs (measured from the normal pool elevation) or to the ridge line of				
17	the watershed (whichever comes first); watershed, whichever is nearest the normal pool				
18	elevation of the reservoir; or				
19	(b) extending either 10 miles in an as-the-river-runs manner upstream from and draining to the				
20	intake located directly in the stream or river (run of the river), run-of-the-river or to the				
21	ridge line of the watershed (whichever comes first). watershed, whichever is nearest the				
22	intake; or Local governments may extend the protected area. Major landmarks such as				
23	highways or property lines may be used to delineate the outer boundary of the protected				
24	area if these landmarks are immediately adjacent to the appropriate outer boundary of five				
25	or 10 miles. In some cases the protected area shall encompass the entire watershed.				
26	(c) extending a different distance from the reservoir or intake as adopted by the The				
27	Commission may adopt a different protected area size during the reclassification process.				
28	process pursuant to Rule .0104 of this Subchapter.				
29	(54)(46) Residential development "Residential development" means buildings for residence such as attached				
30	and detached single family dwellings, apartment complexes, condominiums, townhouses, cottages,				
31	and their associated outbuildings such as garages, storage buildings, and gazebos.				
32	(55)(47) Residuals means any solid or demisolid waste generated from a wastewater treatment plant, water				
33	treatment plant or air pollution control facility permitted under the authority of the Environmental				
34	Management Commission. [Residuals are defined] "Residuals" has the same meaning as in 15A				
35	<u>NCAC 02T .0103.</u>				
36	(56)(48) Riparian area "Riparian area" means an area that is adjacent to a body of water.				

1	(57)(49) Secondary "Secondary contact recreation includes recreation" means wading, boating, other uses					
2	not involving human body contact with water, and activities involving human body contact with					
3	water where such activities take place on an infrequent, unorganized, or incidental basis.					
4	(58)(50) Sensitive "Sensitive species for aquatic toxicity testing is testing" means any species utilized in					
5	procedures accepted by the Commission or its designee in accordance with Rule .0103 of this					
6	Subchapter, of and the following genera:					
7	(a) Daphnia;					
8	(b) Ceriodaphnia;					
9	(c) Salmo;					
10	(d) Pimephales;					
11	(e) Mysidopsis;					
12	(f) Champia;					
13	(g) Cyprinodon;					
14	(h) Arbacia;					
15	(i) Penaeus;					
16	(j) Menidia;					
17	(k) Notropis;					
18	(l) Salvelinus;					
19	(m) Oncorhynchus;					
20	(n) Selenastrum;					
21	(o) Chironomus;					
22	(p) Hyalella;					
23	(q) Lumbriculus.					
24	(59)(51) Shellfish culture includes "Shellfish culture" means the use of waters for the propagation, storage					
25	storage, and gathering of oysters, clams, and other shellfish for market purposes.					
26	(60) Stormwater collection system means any conduit, pipe, channel, curb or gutter for the primary					
27	purpose of transporting (not treating) runoff. A stormwater collection system does not include					
28	vegetated swales, swales stabilized with armoring or alternative methods where natural topography					
29	prevents the use of vegetated swales (subject to case by case review), curb outlet systems or pipes					
30	used to carry drainage underneath built upon surfaces that are associated with development					
31	controlled by the provisions of 15A NCAC 2H .1003(c)(1).					
32	(61) Source of water supply for drinking, culinary or food processing purposes means any source, either					
33	public or private, the waters from which are used for human consumption, or used in connection					
34	with the processing of milk, beverages, food, or other purpose which requires water suitable for					
35	human consumption.					
36	(62)(52) Swamp waters mean those waters which are classified by the Environmental Management					
37	Commission and which are topographically located so as to generally have very low velocities and					

1	other characteristics which are different from adjacent streams draining steeper topography. They
2	are designated by "Sw" following the water classification. [Swamp waters are] "Swamp waters"
3	means those waters [which] that are classified as such by the Environmental Management
4	[Commission as such] Commission, pursuant to Rule .0101 of this Subchapter, and [which are
5	topographically located so as to generally] that have natural characteristics due to topography, such
6	as low velocity, dissolved oxygen, or [pH, which] pH, that are different from streams draining
7	steeper topography.
8	(63)(53) Tidal salt waters <mark>mean</mark> "Tidal salt waters" means all tidal waters which are classified by the
9	Environmental Management Commission which that generally have a natural chloride ion content
10	in excess of 500 parts per million and include all waters assigned S classifications. million.
11	(64)(54) Toxic substance or toxicant "Toxic substance" or "Toxicant" means any substance or combination
12	of substances (including disease-causing agents), which agents) that, after discharge and upon
13	exposure, ingestion, inhalation, or assimilation into any organism, either directly from the
14	environment or indirectly by ingestion through food chains, has the potential to cause death, disease,
15	behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including
16	malfunctions or suppression in reproduction or growth) growth), or physical deformities in such
17	organisms or their offspring.
18	(65)(55) Trout waters are those waters which have conditions which shall sustain and allow for trout
19	propagation and survival of stocked trout on a year round basis. These waters shall be classified by
20	the Commission after considering the requirements of Rule .0101(b) and (c) of this Subchapter and
21	include all waters designated by "Tr" in the water classification. [Trout waters are] "Trout waters"
22	means those waters which are classified as such by the Environmental Management [Commission]
23	as such] Commission, pursuant to Rule .0101 of this Subchapter, and have conditions [which shall]
24	that sustain and allow for natural trout propagation and survival and for year-round maintenance of
25	stocked [trout on a year round basis.] trout.
26	(66)(56) Waste disposal includes "Waste disposal" means the use of waters for disposal of sewage, industrial
27	waste waste, or other waste after approved treatment.
28	(67)(57) Water dependent structures are <u>"Water dependent structures" means</u> those structures for which the
29	whose use requires access or proximity to or siting within surface waters to fulfill its basic purpose,
30	such as boat ramps, boat houses, docks <u>docks</u> and bulkheads. Ancillary facilities such as restaurants,
31	outlets for boat supplies, parking lots lots, and commercial boat storage areas are not water
32	dependent structures.
33	(68)(58) Water Water quality based effluent limits (or limitations) and best management practices are
34	practices" mean limitations or limits and best management practices developed by the Division for
35	the purpose of protecting to protect water quality standards and best uses of surface waters
36	waters, consistent with the requirements of G.S. 143-214.1 and the Federal federal Water Pollution
37	Control <mark>Act <u>Act</u>,</mark> as amended.

1	(69)<u>(</u>59)) Waters "Waters with quality higher than the standards standards" means all waters for which the
2		determination of waste load allocations (pursuant to Rule .0206 of this Section) indicates that water
3		quality is sufficiently greater than that defined by the standards such that significant pollutant
4		loading capacity still exists in those waters.
5	(70)<u>(60</u>)	Watershed "Watershed" means a natural area of drainage, including all tributaries contributing to
6		the supply of at least one major waterway within the State, the specific limits of each separate
7		watershed to be designated by the Commission as defined by G.S. 143-213 (21). the entire land area
8		contributing surface drainage to a specific point. For the purpose of the water supply protection rules
9		in 15A NCAC 2B .0104 and .0211 local governments may use major landmarks such as highways
10		or property lines to delineate the outer boundary of the drainage area if these landmarks are
11		immediately adjacent to the ridgeline.
12	(71)<u>(61</u>)) Wetlands "Wetlands" are "waters" as defined by G.S. 143-212(6) and are areas that are inundated
13		or saturated by an accumulation of surface or ground water at a frequency and duration sufficient to
14		support, and that under normal circumstances do support, a prevalence of vegetation typically
15		adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and
16		similar areas. do not include prior converted cropland as defined in the National Food Security Act
17		Manual, Fifth Edition, available free of charge [on the internet] at
18		https://directives.sc.egov.usda.gov/RollupViewer.aspx?hid=29340. Wetlands classified as waters
19		of the state are restricted to waters of the United States as defined by 33 CFR 328.3 and 40 CFR
20		230.3.
21	<u>(62)</u>	For purposes of applicability to Rules [15A NCAC 02B] .0265, .0266, [-0277] .0277, and .0278 of
22		this Section and until those rules are removed from Section .0200 of this Subchapter and recodified
23		into Section [.0700,] .0700 of this Subchapter, refer to [rule 15A NCAC 02B .0621] G.S. 143-214.7
24		for the definitions of ["built-upon-area"] "Built-upon area" and ["development".] "Development."
25		
26	History Note:	Authority G.S. 143-214.1; 143-215.3(a)(1);
27		Eff. February 1, 1976;
28		Amended Eff. August 1, 1995; February 1, 1993; August 3, 1992; August 1, 1990;
29		RRC Objection Eff. July 18, 1996 due to lack of authority and ambiguity;
30		Amended Eff. August 1, 1998; October 1, 1996. <u>1996;</u>
31		<u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0203

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Is this Rule necessary? It doesn't appear to be doing anything other than saying "the Division will create these limitations", as opposed to saying what those limitations are. I'm a bit concerned with the wording of this Rule because it sounds like it has the potential to meet the definition of a "rule" as contained in 150B. Are the water quality based effluent limitations not set forth in Rule? How does this Rule go with these Rules as whole?

1 15A NCAC 02B .0203 is readopted as published in 32:22 NCR 2411-2493 <u>with changes</u> as follows:

3 15A NCAC 02B .0203 PROTECTION OF WATERS DOWNSTREAM OF RECEIVING WATERS

4 Water quality based effluent limitations or <u>and best</u> management practices for direct or indirect discharges of waste

5 or for other sources of water pollution will shall be developed by the Division such that the water quality standards

6 and best usage of receiving waters and all downstream waters will not be impaired.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); *Eff. February 1, 1976; Amended Eff. October 1, 1989; January 1, 1985; September 9, 1979. <u>1979;</u>
<u>Readopted Eff. September 1, 2019.</u>*

2

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0204

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

In (a), what are the "established standards"?

In (a), what is a "prescribed mixing zone"? Is this set forth in the Permit?

In (b), line 9, by "may" do you mean "shall"? If you mean "may", when will it be necessary to create the opportunity for mixture?

In (b), delete or define "reasonable" in "reasonable opportunity"

In (b)(3), what is an "undesirable aquatic life"? Can you provide some examples? How about "nuisance species"? Are these terms of art in your industry?

15A NCAC 02B .0204 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

2

3 15A NCAC 02B .0204 LOCATION OF SAMPLING SITES AND MIXING ZONES

4 (a) Location of Sampling Sites: in In conducting tests or making analytical determinations of classified waters to
 5 determine conformity or nonconformity with whether they conform with the established standards, samples shall be
 6 collected outside the limits of prescribed mixing zones. However, where appropriate, if required by NPDES permit.

6 conceled outside the minus of presented mixing zones. However, where appropriate, in required by NFDES permit.

7 samples shall be collected within the mixing zone in order to ensure compliance with in-zone water quality

- 8 requirements as outlined in Paragraph (b) of this Rule.
- 9 (b) Mixing Zones: a <u>A</u> mixing zone may be established in the area of a discharge in order to provide reasonable

10 opportunity for the mixture of the wastewater with the receiving waters. Water quality standards shall not apply within

11 regions defined designated as mixing zones, except that such zones shall be subject to the conditions established in

12 accordance with this Rule. The limits of such mixing zones shall be defined determined by the division Division on a

13 case-by-case basis after consideration of the magnitude and character of the waste discharge and the size and character

- 14 of the receiving waters. Mixing zones shall be determined designated such that discharges shall will not:
- result in acute toxicity to aquatic life life, [as defined by in Rule .0202(1) of this Section] Section,
 or prevent free passage of aquatic organisms around the mixing zone;
- 17 (2) result in offensive conditions;
- 18 (3) produce undesirable aquatic life or result in a dominance of nuisance species outside of the assigned
 19 mixing zone; or
- 20 (4) endanger the public health or welfare.

In addition, a mixing zone shall not be assigned designated for point source discharges of fecal coliform organisms in waters classified "WS-II," "WS-III," "B," or "SA". ["SA"] "SA," as defined in Rule .0301 of this Subchapter. Mixing zones shall not be assigned designated for point source discharges of enterococci in waters classified "SB" or "SA". ["SA"] "SA," as defined in Rule .0301 of this Subchapter. For the discharge of heated wastewater, compliance with federal rules and regulations pursuant to Section 316(a) of the Federal Water Pollution Control Act Act, as amended, shall constitute compliance with Subparagraph Paragraph (b) of this Rule.

27

28 History Note: Authority G.S. 143-214.1;

29 *Eff. February 1, 1976;*

30 Amended Eff. May 1, 2007; October 1, 1989; February 1, 1986; September 9, 1979. <u>1979</u>;

31 <u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0205

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Lines 4-6 appear to be unnecessary. Please review and consider deleting this language.

If you decide that you need this language, what is the "normal range"? How is this determined?

On line 6, please add comma after "industrial wastes" and "other wastes"

15

15A NCAC 02B .0205 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

Readopted Eff. September 1, 2019.

3 15A NCAC 02B .0205 NATURAL CHARACTERISTICS OUTSIDE STANDARDS LIMITS 4 Natural waters may on occasion, or temporarily, have characteristics outside of the normal range established by the 5 standards. The adopted water quality standards relate to the condition of waters as affected by the discharge of sewage, 6 industrial wastes or other wastes including those from nonpoint sources and other sources of water pollution. Water 7 quality standards will shall not be considered violated when if values outside the normal range are caused by natural 8 conditions. Where If wastes are discharged to such waters, the discharger will shall not be considered deemed a 9 contributor to substandard conditions provided if maximum treatment in compliance with permit requirements is 10 maintained and, therefore, meeting the established limits is beyond the discharger's control. 11 12 History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); 13 Eff. February 1, 1976; 14 Amended Eff. October 1, 1989; January 1, 1985. 1985;

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0206

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Much of (a) appears to be unnecessary. Please review and revise. Of particular interest are lines 6-8 ("there are... categories of standards".) Could you just say "Water quality based effluent limitations shall be developed as follows:"

In (a)(1), delete "to the satisfaction of the Director"

In (c), delete or define "significantly" in "significantly less than ... "

In (d)(1), how is the director to determine that the limitations will not protect the water quality standards? Are the factors set forth elsewhere?

In (d)(1), how is the director to determine the requirements for existing discharges? I understand it will be done on a case by case basis, but what factors will he or she use? Alternatively, what's the goal (see language in (b).)

What is the intent of the last line of (d)(1), "are determined to be inadequate..."? Does this relate to "limitations will not protect water quality standards" on lines 18-19? How will this determination be made?

In (d)(2), consider deleting "(additional)"

In (d)(2), how is the director to determine the requirements for existing discharges? I understand it will be done on a case by case basis, but what factors will he or she use? Alternatively, what's the goal?

In (d)(3), what standards are "the standards"? Those set forth in this Paragraph?

In (d)(3), add a comma before "unless"

In (d)(3), how is the Director to determine that alternative limitations protect the water uses? Are the factors set forth elsewhere in rule or statute?

In (e), by "may", do you mean "shall" on line 30?

In (e), how is it determined whether "other methods" would be appropriate?

15A NCAC 02B .0206 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

3 15A NCAC 02B.0206 FLOW DESIGN CRITERIA FOR EFFLUENT LIMITATIONS

4 (a) Water quality based effluent limitations for categories of water quality standards shall be developed to allow 5 appropriate frequency and duration of deviations from water quality standards so that the designated uses of receiving 6 waters are protected. There are water quality standards for a number of categories of pollutants and to protect a range 7 of water uses. For this reason, the appropriate frequency and duration of deviations from water quality standards shall 8 not be the same for all categories of standards. A flow design criterion shall be used in the development of water 9 quality based effluent limitations as a simplified means of estimating the acceptable frequency and duration of 10 deviations. More complex modeling techniques may also be used to set effluent limitations directly based on frequency and duration criteria published by the U.S. Environmental Protection Agency available free of charge at 11 12 http://water.epa.gov/scitech/swguidance/standards/criteria/current/index.cfm_are_hereby_incorporated_by_reference 13 including any subsequent amendments. [amendments and editions.] Use of more complex modeling techniques to set 14 water quality based effluent limitations shall be approved by the Commission or its designee on a case by case basis. Flow design criteria to calculate water quality based effluent limitations for categories of water quality standards shall 15 be the following: Effluent limitations shall be developed using the following flow design criteria: 16 17 All standards except toxic substances and aesthetics shall be protected using the minimum average (1)18 flow for a period of seven consecutive days that has an average recurrence of once in ten years 19 (7Q10 flow). Other governing flow strategies, such as varying discharges with the receiving waters 20 ability to assimilate wastes, may be designated by the Commission or its designee on a case-by-case 21 basis if the discharger or permit applicant provides evidence that establishes to the satisfaction of 22 the Director that the alternative flow strategies will give equal or better protection for the water 23 quality standards. "Better protection for the water quality standards" means that deviations from the 24 standard would be expected less frequently than provided by using the 7Q10 flow. 25 (2)Toxic substance standards to protect aquatic life from chronic toxicity shall be protected using the 26 7010 flow. 27 (3) Toxic substance standards to protect aquatic life from acute toxicity shall be protected using the 28 1010 flow. 29 (4)Toxic substance standards to protect human health shall be the following: 30 (A) The 7Q10 flow for standards to protect human health through the consumption of water, 31 fish, and shellfish from noncarcinogens; and 32 **(B)** The mean annual flow to protect human health from carcinogens through the consumption 33 of water, fish, and shellfish unless site specific fish contamination concerns necessitate the 34 use of an alternative design flow; 35 (5) Aesthetic quality shall be protected using the minimum average flow for a period of 30 consecutive 36 days that has an average recurrence of once in two years (30Q2 flow).

More complex modeling techniques may also be used to set effluent limitations directly based on frequency and 1 2 duration criteria published by the U.S. Environmental Protection Agency, available free of charge at 3 http://water.epa.gov/scitech/swguidance/standards/criteria/current/index.cfm and incorporated by reference, 4 including subsequent amendments and editions, and the Commission or its designee has determined, on a case-by-5 case basis, that the techniques will protect the designated uses of receiving waters. 6 (b) In cases where If the stream flow is regulated, a minimum daily low flow may be used as a substitute for the 7Q10 7 flow, except in cases where there are acute toxicity concerns for aquatic life. In the cases where there are acute toxicity 8 concerns, an alternative low flow, such as the instantaneous minimum release, shall be approved by if the Director 9 determines, on a case-by-case basis, so that the designated uses of receiving waters are protected. 10 (c) Flow design criteria shall be used to develop water quality based effluent limitations and $\frac{for}{for}$ in the design of 11 wastewater treatment facilities. Deviations from a specific water quality standard resulting from discharges that are 12 affirmatively demonstrated to be in compliance with water quality based effluent limitations for that standard shall 13 not be a violation pursuant to G.S. 143-215.6 when the actual flow is significantly less than the design flow. 14 (d) In cases where If the 7Q10 flow of the receiving stream is estimated to be zero, water quality based effluent 15 limitations shall be assigned as follows: 16 (1)Where If the 30Q2 flow is estimated to be greater than zero, effluent limitations for new or expanded 17 (additional) discharges of oxygen consuming waste shall be set at $BOD_5=5 \text{ mg/l}, \text{NH}_3-\text{N}=2 \text{ mg/l}$ 18 and DO = 6 mg/l, unless it is determined by the Director that these limitations will not protect water 19 quality standards. Requirements for existing discharges shall be determined on a case-by-case basis 20 by the Director. More stringent limits shall be applied in cases where if violations of water quality 21 standards are predicted to occur for a new or expanded discharge with the limits set pursuant to this 22 Rule, Rule or where if existing limits are determined to be inadequate to protect water quality 23 standards. 24 (2)If the 30Q2 and 7Q10 flows are both estimated to be zero, no new or expanded (additional) discharge 25 of oxygen consuming waste shall be allowed. Requirements for existing discharges to streams where 26 the 30Q2 and 7Q10 flows are both estimated to be zero shall be determined on a case-by-case basis. 27 (3) Other water quality standards shall be protected by requiring the discharge to meet the standards 28 unless the Director determines that alternative limitations protect the classified water uses. 29 (e) Receiving water flow statistics shall be estimated through consultation with the U.S. Geological Survey. Estimates 30 for any given location may be based on actual flow data, modeling analyses, or other methods determined to be 31 appropriate by the Commission or its designee. 32 33 Authority G.S. 143-214.1; 143-215.3(a)(1); History Note: 34 *Eff. February 1, 1976;* 35 Amended Eff. January 1, 2015; February 1, 1993; October 1, 1989; August 1, 1985; January 1, 36 1985. 1985; 37 Readopted Eff. September 1, 2019.

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0208

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Are lines 6-8 ("Specific standards... respectively") necessary here?

On line 8, what is a "narrative standard"? Is this a term or art?

In (a)(1), what is a "chronic value for aquatic life"?

In (a)(2)(A)(ii), delete "approved by the Commission or its designee" after "bioconcentration data"

On line 13, higher rate than one? The rest of the population?

Overall, I'm having a hard time following (a)(2)(B). Please consider reviewing and revising as necessary. Perhaps it would be helpful and more simple to use language such as that used in the referenced rules on line 17?

Delete lines 32-35 as this is not providing any directive or information and appears to point to rules outside of the rulemaking process.

On line 36, begin a new sentence with "Standards to protect human..." and another new sentence at the end of line 37 and beginning of line 1 with "The equations listed..."

In (a)(2)(B), line 5-6, what is an "unacceptable health risk"? I see that you provide additional information for cancer, but I assume that there are others? If you're only intending on getting to CPFs in this Rule, please make revise and clarify.

What is the intent of lines 8-12? Did you intend to incorporate this Modal of the EPA by reference?

On line 17, please begin "standards to protect human" as a new sentence.

Amber May Commission Counsel Date submitted to agency: July 30, 2019 Please end (a)(2)(B) with a period.

In (b), delete or define "reasonable" in "reasonable portion of the body"

3

15A NCAC 02B .0208 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

2

15A NCAC 02B .0208 STANDARDS FOR TOXIC SUBSTANCES AND TEMPERATURE

(a) Toxic Substances: the concentration of toxic substances, either alone or in combination with other wastes, in
surface waters shall not render waters injurious to aquatic life or wildlife, recreational activities, public health, or
activities, or public health, nor shall it impair the waters for any designated uses. Specific standards for toxic
substances to protect freshwater and tidal saltwater uses are listed in Rules .0211 and .0220 of this Section,
respectively. Procedures for interpreting the The narrative standard for toxic substances and numerical standards
applicable to all waters are shall be interpreted as follows:

- 10 Aquatic life standards: the The concentration of toxic substances shall not result in chronic toxicity. (1)11 toxicity to aquatic life. Any levels in excess of the chronic value for aquatic life shall be considered 12 to result in chronic toxicity. In the absence of direct measurements of chronic toxicity, the 13 concentration of toxic substances shall not exceed the concentration specified by the fraction of the 14 lowest LC50 value that predicts a no effect chronic level (as as determined by the use of an 15 acceptable acute/chronic ratios). Acute to Chronic Ratio (ACR) in accordance with U.S. Environmental Protection Agency (EPA) "Guidelines for Deriving Numerical Water Quality 16 17 Criteria for the Protection of Aquatic Life and its Uses." If an acceptable acute/chronic ratio [ACR] 18 In the absence of an ACR, is not available, then that toxic substance shall not exceed one-one 19 hundredth (0.01) of the lowest LC50 or or, if it is affirmatively demonstrated that a toxic substance 20 has a half-life of less than 96 hours hours, the maximum concentration shall not exceed 21 one-twentieth (0.05) of the lowest LC50; LC50.
- Human health standards: the <u>The</u> concentration of toxic substances shall not exceed the level
 necessary to protect human health through exposure routes of fish tissue consumption, water
 consumption, <u>recreation</u>, or other route identified as appropriate for the water body. Fish tissue
 consumption includes shall include the consumption of shellfish; shellfish. These concentrations of
 toxic substances shall be determined as follows:
- 27 (A) For non-carcinogens, these concentrations shall be determined using a Reference Dose 28 (RfD) as published by the U.S. Environmental Protection Agency EPA pursuant to Section 29 304(a) of the Federal Water Pollution Control Act as amended or amended, a RfD issued 30 by the U.S. Environmental Protection Agency EPA as listed in the Integrated Risk 31 Information System (IRIS) file file, or a RfD approved by the Director after consultation 32 with the State Health director. Water quality standards or criteria used to calculate water 33 quality based effluent limitations to protect human health through the different exposure 34 routes are shall be determined as follows:
- 35 (i) Fish tissue consumption:
 36 WQS = (RfD x RSC) x Body Weight / (FCR x BCF)
 37 where:

1	WQS = water quality standard or criteria;
2	RfD = reference dose;
3	RSC = Relative Source Contribution;
4	FCR = fish consumption rate (based upon 17.5 gm/person-day);
5	BCF = bioconcentration factor, factor or bioaccumulation factor (BAF), as
6	appropriate.
7	Pursuant to Section 304(a) of the Federal Water Pollution Control Act as amended
8	amended, BCF or BAF values, literature values, or site specific bioconcentration data
9	approved by the Commission or its designee are shall be based on U.S. Environmental
10	Protection Agency EPA publications; FCR values are shall be average consumption rates
11	for a 70 Kg adult for the lifetime of the population; alternative FCR values may be used
12	when it is considered necessary to protect localized populations that may be consuming
13	fish at a higher rate; RSC values, when made available through U.S. Environmental
14	Protection Agency EPA publications pursuant to Section 304(a) of the Federal Clean Water
15	Pollution Control Act to account for non-water sources of exposure may be either a
16	percentage (multiplied) or amount subtracted, depending on whether multiple criteria are
17	relevant to the chemical;
18	(ii) Water consumption (including a correction for fish consumption):
19	WQS = (RfD x RSC) x Body Weight / [WCR+(FCRxBCF)]
20	where:
21	WQS = water quality standard or criteria;
22	RfD = reference dose;
23	RSC = Relative Source Contribution;
24	FCR = fish consumption rate (based upon 17.5 gm/person-day);
25	BCF = bioconcentration factor, factor or bioaccumulation factor (BAF),
26	as appropriate;
27	WCR = water consumption rate (assumed to be two liters per day for
28	adults).
29	To protect sensitive groups, exposure is shall be based on a 10 Kg child drinking one liter
30	of water per day. Standards may also be based on drinking water standards based on the
31	requirements of the Federal Safe Drinking Water Act [42 Act, 42 U.S.C. 300(f)(g) 1].
32	300(f)(g)-1. For non-carcinogens, specific numerical water quality standards have not been
33	included in this Rule because water quality standards to protect aquatic life for all toxic
34	substances for which standards have been considered are more stringent than numerical
35	standards to protect human health from non-carcinogens through consumption of fish;
36	standards to protect human health from non-carcinogens through water consumption are
37	listed under the water supply classification standards in Rule .0211 of this Section; the

1		equations	listed in this Subparagraph shall be used to develop water quality based effluent			
2		limitations	limitations on a case-by-case basis for toxic substances that are not presently included in			
3		the water	the water quality standards. Alternative FCR values may be used when it is considered			
4		necessary	necessary to protect localized populations that may be consuming fish at a higher rate;			
5	(B)	For carcinogens, the concentrations of toxic substances shall not result in unacceptable				
6		health risks and shall be based on a Carcinogenic Potency Factor (CPF). An unacceptable				
7		health risk for cancer shall be considered to be more than one case of cancer per one million				
8		people exp	people exposed $(10-6 (10^{-6} risk level))$. The CPF is a measure of the cancer-causing potency			
9		of a substa	of a substance estimated by the upper 95 percent confidence limit of the slope of a straight			
10		line calcul	line calculated by the Linearized Multistage Model or other appropriate model according			
11		to U.S. E	to U.S. Environmental Protection Agency Guidelines [FR Guidelines, FR 51 (185):			
12		33992-340	33992-34003; and FR 45 (231 Part V): 79318 79379] . <u>79318-79379</u> . Water quality			
13		standards o	standards or criteria for water quality based effluent limitations are shall be calculated using			
14		the proced	the procedures given in Subparagraphs (A) $\left[\frac{(a)(2)(A)}{(a)(2)(A)}\right]$ and (B) of this Rule. this Part and			
15		<u>in Part (A</u>) of this Subparagraph. Standards to protect human health from carcinogens			
16		through water consumption are listed under the water supply classification standards in				
17		Rules .0212, .0214, .0215, .0216, and .0218 of this Section; standards to protect human				
18		health from carcinogens through the consumption of fish (and shellfish) only are shall be				
19		applicable	to all waters as follows:			
20		(i)	Aldrin: 0.05 ng/l;			
21		(ii)	Arsenic: 10 ug/l;			
22		(iii)	Benzene: 51 ug/l;			
23		(iv)	Carbon tetrachloride: 1.6 ug/l;			
24		(v)	Chlordane: 0.8 ng/l;			
25		(vi)	DDT: 0.2 ng/l;			
26		(vii)	Dieldrin: 0.05 ng/l;			
27		(viii)	Dioxin: 0.000005 ng/l;			
28		(ix)	Heptachlor: 0.08 ng/l;			
29		(x)	Hexachlorobutadiene: 18 ug/l;			
30		(xi)	Polychlorinated biphenyls (total of all identified PCBs and congeners):			
31			0.064 ng/l;			
32		(xii)	Polynuclear aromatic hydrocarbons (total of all PAHs): 31.1 ng/l;			
33		(xiii)	Tetrachloroethane (1,1,2,2): 4 ug/l;			
34		(xiv)	Tetrachloroethylene: 3.3 ug/L;			
35		(xvi)	Trichloroethylene: 30 ug/l;			
36		(xvii)	Vinyl chloride: 2.4 ug/l.			

1		The values listed in Subparts (i) through (xvii) of this Part may be adjusted by the
2		Commission or its designee on a case-by-case basis to account for site-specific or
3		chemical-specific information pertaining to the assumed BCF, FCR FCR, or CPF values
4		or other data;
5	(b) Temperatu	re: the Commission may establish a water quality standard for temperature for specific water bodies
6	other than the st	andards specified in Rules .0211 and .0220 of this Section, Section upon a case-by-case determination
7	that thermal dis	charges to these waters, waters that serve or may serve as a source or receptor of industrial cooling
8	water provide fo	or the maintenance of the designated best use throughout a reasonable portion of the water body. Such
9	revisions of the	temperature standard must shall be consistent with the provisions of Section 316(a) of the Federal
10	Water Pollution	Control Act Act, as amended. A listing list of existing thermal such revisions shall be maintained
11	and made availa	ble to the public by the Division.
12		
13	History Note:	Authority G.S. 143-214.1; 143-215.3(a)(1);
14		Eff. February 1, 1976;
15		Amended Eff. May 1, 2007; April 1, 2003; February 1, 1993; October 1, 1989; January 1, 1985;
16		September 9, 1979. <u>1979:</u>
17		<u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0211

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

What is the overall intent of this Rule? I read it to say that these are the water quality standards applicable to Class C Waters. Assuming that's correct, why are lines 5-8 necessary? At best, they appear unnecessary, but more concerning to me is that they are confusing. With regard to the reference to .0208, is the intent here to say something like "In addition to the requirements set forth in Rule .0208 of this Subchapter, all fresh surface waters classified as Class C waters shall meet the following standards:"? If so, please say that.

Is (1) really a standard and/or requirement or would it make sense to move that up to the introductory information? It looks to me that Item (1) really explains what this classification means and is applicable to and would be helpful to know at the outset. Just something to consider.

In (1), what is meant by "all freshwaters shall be classified to protect these uses at a minimum"? Classified as what? Class C waters? Is the intent here just to say that these are minimum requirements and the lowest level of protection?

In Item (2), what is meant by "are suitable for all best uses"? Here, do you mean something similar to what you've done in .0212 (2) in that Items (3) through (22) really set the standard the and the requirements for Class C Waters? If so, you might want to consider combining (1) and (2) and make them part of the introductory language on lines 4-8.

Items (3) through (22), I note that your formatting is different here than in other similar Rules in that other Rules do not use the colons and the requirements in .0212 are in complete sentences. Please consider making them consistent.

Please consider formatting (4), (6), (18), (19), and (21) into a list as you've done elsewhere in this Rule. For example, (4) would look something like:

Amber May Commission Counsel Date submitted to agency: July 30, 2019

(4) Chlorophyll a (corrected): not greater than

- (a) shall not exceed 40 ug/l [(based upon monthly averaging where such data are available during the growing season which is generally April 1 — October 31)] for lakes, reservoirs, and other waters subject to growths of macroscopic or microscopic vegetation not designated as trout waters; waters, and not greater than
- (b) shall not exceed 15 ug/l for lakes, reservoirs, and other waters subject to growths of macroscopic or microscopic vegetation designated as trout. This Subitem is not waters (not applicable to lakes or reservoirs less than 10 acres in surface area, area).

The Commission or its designee may prohibit or limit any discharge of waste into surface waters if the surface waters experience or the discharge would result in growths of microscopic or macroscopic vegetation such that the standards established pursuant to this Rule would be violated or the intended best usage of the waters would be impaired;

In Item (4), why is "(corrected)" after "Chlorophyll a? Do you need this here?

In Item (4), please consider taking "not applicable to lakes or reservoirs less than 10 acres in surface area" out of the parenthesis and this information appears to be fairly important.

In (7), what is meant by "consecutive samples"? Is this five consecutive days? Could they be done 5 times in one day?

What is the intent of 5-7? Is the point here to say that you all expect violations of the fecal coliform standard and if that happens, then it's okay? If that's what you mean, please make this more clear. Otherwise, I'm not sure that I understand the point of this language.

In Item (7), change "the fecal coliform standard" to "this Item"

In (7), please change "in some cases, this violation is expected to" to "may" so that it reads "Violations of this Item are expected during rainfall and may be caused by uncontrollable nonpoint source solution."

Item (8) seems to be missing a word. Is the intent here to say that floating solids, settleable solids, or sludge deposits are not considered to be a violation so long as they don't make the water unsafe or unsuitable? If so, please make that more clear. I note that in .0220(7), you've added "shall be allowed."

In Item (8), what is meant by "shall not make the water unsafe or unsuitable"? How is this determined?

In (11)(a), are the standards set forth in (11)(b)? If so, please provide that cross-reference to make it clear that you aren't referencing two different things.

In (11)(b), what is "hardness-dependent"? I assume that your regulated public knows?

In (11), please consider making (11)(b) (11)(a), moving (11)(a) after (11)(b) and making lines 33-12 ("With the exception... free of charge") (11)(c). I think this may aid in the clarity (but note my suggestion regarding (b) further down.)

- (11) Metals:
 - (a) With the exception of mercury and selenium, freshwater aquatic life standards for metals shall be based upon measurement of the dissolved fraction of the metal. Mercury and selenium water quality standards shall be based upon measurement of the total recoverable metal;
 - (b)(a) Freshwater metals standards that are not hardness-dependent shall be as follows: not exceed the following:
 - (i) Arsenic, dissolved, acute: WER· 340 ug/l;
 - (ii) Arsenic, dissolved, chronic: WER · 150 ug/l;
 - (iii) Beryllium, dissolved, acute: WER \cdot 65 ug/l;
 - (iv) Beryllium, dissolved, chronic: WER · 6.5 ug/l;
 - (v) Chromium VI, dissolved, acute: WER \cdot 16 ug/l;
 - (vi) Chromium VI, dissolved, chronic: WER· 11 ug/l;
 - (vii) Mercury, total recoverable, chronic: 0.012 ug/l;
 - (viii) Selenium, total recoverable, chronic: 5 ug/l;
 - (ix) Silver, dissolved, chronic: WER \cdot 0.06 ug/l;
 - <mark>(b)</mark> With the exception of mercury and selenium, acute and chronic freshwater aquatic life <mark>standards for metals listed in</mark> this <mark>Subparagraph</mark> Sub-Item shall apply to the dissolved form of the metal and apply as a function of the pollutant's water effect ratio (WER). A WER expresses the difference between the measures of the toxicity of a substance in laboratory waters and the toxicity in site water. The WER shall be assigned a value equal to one unless any person demonstrates to the Division's satisfaction in a permit proceeding that another value is developed in accordance with the "Water Quality Standards Handbook: Second Edition" published by the US Environmental Protection Agency (EPA-823-B-12-002), free of charge, at http://water.epa.gov/scitech/swguidance/standards/handbook/, hereby incorporated by reference including any subsequent amendments. amendments and editions. Alternative site-specific standards may also be developed when any person submits values that demonstrate to the Commissions' Commission's satisfaction that they were derived in accordance with the "Water Quality Standards Handbook: Second Edition, Recalculation Procedure or the Resident Species Procedure", hereby incorporated by reference subsequent including amendments at http://water.epa.gov/scitech/swguidance/standards/handbook/.
 - This material is available free of charge.
 - (c) With the exception of mercury and selenium, freshwater aquatic life standards for metals shall be based upon measurement of the dissolved fraction of the metal. Mercury and selenium water quality standards shall be based upon measurement of the total recoverable metal;

In (11)(b) and (d), please consider deleting "acute and chronic freshwater aquatic life standards for metals listed in" and simply say "with the exception of mercury and selenium, this Sub-Item shall apply..." or use this language at the beginning of (11). Please use consistent language where you can.

In (11)(b), lines 35-37, since you use "WER" throughout these Rules, would it be appropriate to move the definition ("A WER expresses the difference between the... site water") to .0202?

Amber May Commission Counsel Date submitted to agency: July 30, 2019 Out of curiosity, why is one discretion for the Division on line 1 and the other is for the Commission on line 7? In any event, please delete "any person demonstrates to the Division's [Commission's] satisfaction" or say how this determination will be made. I would suggest the following (note that I have also cleaned up the incorporation language):

(b) The WER shall be assigned a value equal to one unless any person demonstrates to the Division's satisfaction in a permit proceeding that another value is developed in accordance with either:

(i) the "Water Quality Standards Handbook: Second Edition" published by the US Environmental Protection Agency (EPA-823-B-12-002), which is hereby incorporated by reference, including subsequent amendments and editions, and can be obtained free of charge charge, at http://water.epa.gov/scitech/swguidance/standards/handbook/, http://water.epa.gov/scitech/swguidance/standards/handbook/, http://water.epa.gov/scitech/swguidance/standards/handbook/, http://water.epa.gov/scitech/swguidance/standards/handbook/, http://water.epa.gov/scitech/swguidance/standards/handbook/; <a href="http://water.epa

(ii) the "Water Quality Standards Handbook: Second Edition, Recalculation Procedure or the Resident Species Procedure", <u>which is</u> hereby incorporated by reference including subsequent amendments <u>and can be obtained free of charge</u> at http://water.epa.gov/scitech/swguidance/standards/handbook/. This material is available free of charge.

Is (11)(d) applicable to both hardness-dependent and non hardnessdependent metals? I don't understand the placement of the alternative options in (b), then in (d). Should the alternative methods option in (b)(11) be in (d) as applicable to both? I note that this would make the reference

to (11)(d) as applicable to both? Thote that this would make the reference to (11)(d) on line 3 before your table make sense. As written it is saying "go to (11)(d)" which says "go to (11)(b)."

In (11)(d), the language before the table appears to be repetitive of (11)(b). Should (11)(b) be moved under alternatives? Should "The WER is equal to one" only be before the table? Should the table be part of (c)? I think that the formatting and order here are a bit confusing.

In (17) (a) through (c), please take the information out of the parenthesis as it appears to be important to the testing.

In (17)(b), is this based one sample per quarter? If so, why not move this information to (17) so that it applies to all (and remove it from (a) and (c).

In (21), please consider deleting "as defined by Rule .0202"

In (21), are lines 4-6 ("BMPs shall be in full... of such BMPs") necessary?

If this language is necessary, delete or define "full" in "full compliance" and "proper" in "proper design"

Also, what are "specifications"?

In (22), is the language on lines 16-18 ("which is generally not... waste characteristic) necessary? This appears to be "fluff."

In (22), since you've eliminated everything except chloride, why not just say "chloride", instead of "substance listed in this Item"

In (22), what is the discharger to monitor for?

In (22), what kinds of efforts may be appropriate? Can you provide some examples?

In (22), why on line 20, is the monitoring only applicable to "the discharger" and on line 22, the efforts are applicable to "all dischargers"? Also, I don't understand the use of the semi-colon. Here, do you just mean something like "the discharger shall monitor the chemical or biological effects of the discharge and make efforts to reduce or eliminate any chloride from the effluents.

In (22), how is it to be determined whether chloride may be a "causative factor"?

15A NCAC 02B .0211 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

3 15A NCAC 02B .0211 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS C WATERS

General. The <u>following</u> water quality standards for all fresh surface waters shall be the basic standards applicable apply to Class C waters. Water quality standards for temperature and numerical water quality standards for the protection of human health applicable to all fresh surface waters are in Rule .0208 of this Section. Additional and more stringent standards applicable to other specific freshwater classifications are specified in Rules .0212, .0214, .0215, .0216, .0218, .0219, .0223, .0224 and .0225 of this Section. Action Levels for purposes of National Pollutant Discharge Elimination System (NPDES) permitting are specified in Item (22) of this Rule.

- 10 Best Usage of Waters: The best usage of waters shall be aquatic life propagation and maintenance (1)of biological integrity (including fishing and fish), wildlife, secondary recreation, agriculture and 11 12 any other usage except for primary recreation or as a source of water supply for drinking, culinary 13 or food processing purposes; propagation, survival, and maintenance of biological integrity 14 (including fishing and fish); wildlife; secondary contact recreation as defined in Rule .0202 of this 15 Section; agriculture; and any other usage except for primary contact recreation or as a source of water supply for drinking, culinary, and food processing purposes. All freshwaters shall be classified 16 17 to protect these uses at a minimum.
- 18
 (2)
 Conditions Related to Best Usage: the The conditions of waters shall be such that waters are suitable

 19
 for aquatic life propagation and maintenance of biological integrity, wildlife, secondary recreation,

 20
 and agriculture. all best uses specified in this Rule. Sources of water pollution that preclude any of

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 these uses on either a short-term or long-term basis shall be considered to be violating deemed to

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 violate a water quality standard;
- 23 (3) Chlorine, total residual: <u>shall not exceed</u> 17 ug/l;
- Chlorophyll a (corrected): not greater than shall not exceed 40 ug/l [(based upon monthly averaging 24 (4)25 where such data are available during the growing season which is generally April 1 — October 31) 26 for lakes, reservoirs, and other waters subject to growths of macroscopic or microscopic vegetation 27 not designated as trout waters, and not greater than shall not exceed 15 ug/l for lakes, reservoirs, 28 and other waters subject to growths of macroscopic or microscopic vegetation designated as trout 29 waters (not applicable to lakes or reservoirs less than 10 acres in surface area). The Commission or 30 its designee may prohibit or limit any discharge of waste into surface waters if the surface waters 31 experience or the discharge would result in growths of microscopic or macroscopic vegetation such 32 that the standards established pursuant to this Rule would be violated or the intended best usage of 33 the waters would be impaired;
- 34 (5) Cyanide, total: <u>shall not exceed</u> 5.0 ug/L; <u>ug/l;</u>
- 35 (6) Dissolved oxygen: shall not be less than 6.0 mg/l for trout waters; for non-trout waters, shall not be
 36 less than a daily average of 5.0 mg/l with a minimum an instantaneous value of not less than 4.0

1		mg/l;	swamp wa	aters, lake coves, or backwaters, and lake bottom waters may have lower values if
2		caused	d by natura	al conditions;
3	(7)	Fecal	coliform:	shall not exceed a geometric mean of 200/100ml (MF count) based upon at least
4		five co	onsecutive	samples examined during any <mark>30-day</mark> <u>30-day</u> period, nor exceed 400/100ml in more
5		than 2	20 percent	t of the samples examined during such period. Violations of the fecal coliform
6		standa	ard are exp	pected during rainfall events and, in some cases, this violation is expected to be
7		caused	d by unco	ntrollable nonpoint source pollution. All coliform concentrations shall be analyzed
8		using	the memb	rane filter technique, unless technique. If high turbidity or other adverse conditions
9		neces	<mark>sitate</mark> woul	d cause the membrane filter technique to produce inaccurate data, the most probable
10		numbe	er (MPN)	<u>5-tube multiple</u> tube dilution method. method shall be used. In case of controversy
11		<mark>over r</mark>	esults, the	MPN 5 tube dilution technique shall be used as the reference method;
12	(8)	Floati	ng solids,	settleable solids, or sludge deposits: only such amounts attributable to sewage,
13		indust	rial waste	s, or other wastes as shall not make the water unsafe or unsuitable for aquatic life
14		and w	ildlife or i	mpair the waters for any designated uses;
15	(9)	Fluori	de: <u>shall n</u>	lot exceed 1.8 mg/l;
16	(10)	Gases	, total diss	olved: not greater than shall not exceed 110 percent of saturation;
17	(11)	Metals	s:	
18		(a)	With th	ne exception of mercury and selenium, freshwater aquatic life standards for metals
19			shall b	e based upon measurement of the dissolved fraction of the metal. Mercury and
20			seleniu	m water quality standards shall be based upon measurement of the total recoverable
21			metal;	
22		(b)	Freshw	rater metals standards that are not hardness-dependent shall be as follows: <u>not</u>
23			<u>exceed</u>	the following:
24			(i)	Arsenic, dissolved, acute: WER· 340 ug/l;
25			(ii)	Arsenic, dissolved, chronic: WER· 150 ug/l;
26			(iii)	Beryllium, dissolved, acute: WER· 65 ug/l;
27			(iv)	Beryllium, dissolved, chronic: WER· 6.5 ug/l;
28			(v)	Chromium VI, dissolved, acute: WER· 16 ug/l;
29			(vi)	Chromium VI, dissolved, chronic: WER· 11 ug/l;
30			(vii)	Mercury, total recoverable, chronic: 0.012 ug/l;
31			(viii)	Selenium, total recoverable, chronic: 5 ug/l;
32			(ix)	Silver, dissolved, chronic: WER · 0.06 ug/l;
33			With th	ne exception of mercury and selenium, acute and chronic freshwater aquatic life
34			standar	ds for metals listed in this <mark>Subparagraph Sub-Item shall</mark> apply to the dissolved form
35			of the r	metal and apply as a function of the pollutant's water effect ratio (WER). A WER
36			express	ses the difference between the measures of the toxicity of a substance in laboratory
37			waters	and the toxicity in site water. The WER shall be assigned a value equal to one unless

1		any person demonstrates to the Division's satisfaction in a permit proceeding that another
2		value is developed in accordance with the "Water Quality Standards Handbook: Second
3		Edition" published by the US Environmental Protection Agency (EPA-823-B-12-002), free
4		of charge, at http://water.epa.gov/scitech/swguidance/standards/handbook/, hereby
5		incorporated by reference including any subsequent amendments. <u>amendments and</u>
6		<u>editions.</u> Alternative site-specific standards may also be developed when any person
7		submits values that demonstrate to the Commissions' Commission's satisfaction that they
8		were derived in accordance with the "Water Quality Standards Handbook: Second Edition,
9		Recalculation Procedure or the Resident Species Procedure", hereby incorporated by
10		reference including subsequent amendments at
11		http://water.epa.gov/scitech/swguidance/standards/handbook/.
12		This material is available free of charge.
13		Hardness dependent freshwater metals standards are located in Sub-Item (c) and (d) of this
14		Rule and in Table A: Dissolved Freshwater Standards for Hardness Dependent Metals;
15	(c)	Hardness-dependent freshwater metals standards shall be as follows:
16		(i) Hardness dependent metals standards shall be derived using the equations
17		specified in Table A: Dissolved Freshwater Standards for Hardness-Dependent
18		Metals. If the actual instream hardness (expressed as CaCO ₃ or Ca+Mg) is less
19		than 25 milligrams/liter (mg/l), standards shall be calculated based upon 25 mg/l
20		hardness. If the actual instream hardness is greater than 25 mg/l and less than 400
21		mg/l, standards shall be calculated based upon the actual instream hardness. If the
22		instream hardness is greater than 400 mg/l, the maximum applicable hardness
23		shall be 400 mg/l; <u>mg/l.</u>
24		(ii) Hardness dependent metals in NPDES permitting: for NPDES permitting
25		purposes, application of the equations in Table A: Dissolved Freshwater
26		Standards for Hardness Dependent Metals shall have hardness values (expressed
27		as CaCO ₃ or Ca+Mg) established using the median of instream hardness data
28		collected within the local US Geological Survey (USGS) and Natural Resources
29		Conservation Service (NRCS) 8 digit Hydrologic Unit (HU). The minimum
30		applicable instream hardness shall be 25 mg/l and the maximum applicable
31		instream hardness shall be 400 mg/l, even when the actual median instream
32		-
	(1)	hardness is less than 25 mg/l and greater than 400 mg/l;
33	(d)	Alternatives:
34		Acute and chronic freshwater aquatic life standards for metals listed in Table A shall apply
35		to the dissolved form of the metal and apply as a function of the pollutant's water effect
36		ratio (WER), which is set forth in Sub-Item $\frac{(b)}{(11)(b)}$ of this Rule. Alternative site- specific standards may also be developed as set forth in Sub-Item $\frac{(b)}{(11)(b)}$ of this Rule;
37		

- 1 Table A: Dissolved Freshwater Standards for Hardness-Dependent Metals
- 2 Numeric standards calculated at 25 mg/l hardness are listed below for illustrative purposes. The Water Effects Ratio
- 3 (WER) is equal to one unless determined otherwise under Sub-Item $\frac{(d)}{(11)(d)}$ of this Rule.
- 4

Metal	Equations for Hardness-Dependent Freshwater Metals (ug/l)	Standard
		at 25 mg/l
		hardness
		(ug/l)
Cadmium,	WER · [{1.136672-[ln hardness](0.041838)} · e^{0.9151 [ln hardness]-3.1485}]	0.82
Acute		
Cadmium,	WER· [{1.136672-[ln hardness](0.041838)} · e^{0.9151[ln hardness]-3.6236}]	0.51
Acute,		
Trout waters		
Cadmium,	WER· [$\{1.101672$ -[ln hardness](0.041838) $\}$ · e^{ $\{0.7998[ln hardness]-4.4451\}$]	0.15
Chronic		
Chromium	WER· [0.316 · e^{0.8190[ln hardness]+3.7256}]	180
III, Acute		
Chromium	WER· [0.860 · e^{0.8190[ln hardness]+0.6848}]	24
III,		
Chronic		
Copper,	WER· [0.960 · e^{0.9422[ln hardness]-1.700}]	3.6
Acute	Or,	
	Aquatic Life Ambient Freshwater Quality Criteria—Copper 2007 Revision	NA
	(EPA-822-R-07-001)	
Copper,	WER· [0.960 · e^{0.8545[ln hardness]-1.702}]	2.7
Chronic	Or,	
	Aquatic Life Ambient Freshwater Quality Criteria—Copper 2007 Revision	NA
	(EPA-822-R-07-001)	
Lead,	WER $\left[\{1.46203 - [\ln hardness](0.145712) \} \cdot e^{\{1.273[\ln hardness] - 1.460\}} \right]$	14
Acute		0.54
Lead,	WER· [$\{1.46203$ -[ln hardness](0.145712) $\}$ · e^{ $\{1.273$ [ln hardness]-4.705}]	0.54
Chronic		
Nickel,	WER· [0.998 · e^{0.8460[ln hardness]+2.255}]	140
Acute		
NT: 1-1	WER [0.997 · e^{0.8460[ln hardness]+0.0584}]	16
Nickel, Chronic		10

Silver,	WER· [0.85 · e^{{1.72[ln hardness]-6.59}]	0.30
Acute		
Zinc,	WER· [0.978 · e^{0.8473[ln hardness]+0.884}]	36
Acute		
Zinc,	WER· [0.986 · e^{0.8473[ln hardness]+0.884}]	36
Chroni	c	
	·	
	(e) Compliance with acute instream metals standards shall only be evaluated	using an average
	of two or more samples collected within one hour. Compliance with o	chronic instream
	metals standards shall only be evaluated using an average of a minimum	of four sample
	taken on consecutive days or as a 96-hour average;	
	(f) Metals criteria shall be used for proactive environmental management	nt. An instrean
	exceedence of the numeric criterion for metals shall not be considered to	have caused a
	adverse impact to the instream aquatic community without biological co	nfirmation and
	comparison of all available monitoring data and applicable water quality	standards. Thi
	weight of evidence evaluation shall take into account data quality	and the overal
	confidence in how representative the sampling is of conditions in the wa	terbody segmen
	before an assessment of aquatic life use attainment, or non attainment, s	hall be made by
	the Division. Recognizing the synergistic and antagonistic complexities	s of other wate
	quality variables on the actual toxicity of metals, with the exception	of mercury and
	selenium, biological monitoring will be used to validate, by direct measu	rement, whethe
	or not the aquatic life use is supported;	
(12)	Oils, deleterious substances, colored, or <u>colored or</u> other wastes: wastes shall be	allowed only i
	such amounts as shall not render the waters injurious to public health, secondary	recreation, or t
	aquatic life and wildlife, or adversely affect the palatability of fish, aesthetic quali	
	waters for any designated uses. For the purpose of implementing this Rule,	
	substances, colored, or <u>colored or</u> other wastes shall include substances that cause	
	upon or discoloration of the surface of the water or adjoining shorelines shoreline	
	described in 40 CFR 110.3(a) (b) 110.3(a)-(b), which are hereby incorporate	
	including any subsequent amendments and additions. editions. This material is a	
	charge, at: http://www.ecfr.gov/;	,
(13)	Pesticides shall not exceed the following:	
(10)	(a) Aldrin: 0.002 ug/l;	
	(b) Chlordane: 0.004 ug/l;	
	(b) Chiofdane: 0.004 ug/l; (c) DDT: 0.001 ug/l;	
	(d) Demeton: 0.1 ug/l;	
	(e) Dieldrin: 0.002 ug/l;	
1		(f) Endosulfan: 0.05 ug/l;
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2		(g) Endrin: 0.002 ug/l;
3		(b) Guthion: 0.01 ug/l;
4		(i) Heptachlor: 0.004 ug/l;
5		(j) Lindane: 0.01 ug/l;
6		(k) Methoxychlor: 0.03 ug/l;
7		(l) Mirex: 0.001 ug/l;
8		(m) Parathion: 0.013 ug/l; and
9		(n) Toxaphene: $0.0002 \text{ ug/l};$
10	(14)	pH: shall be normal for the waters in the area, which range between 6.0 and 9.0 except that swamp
11		waters may have a pH as low as 4.3 if it is the result of natural conditions;
12	(15)	Phenolic compounds: shall be allowed only in such levels as shall not result in fish-flesh tainting or
13		impairment of other best usage;
14	(16)	Polychlorinated biphenyls (total of all PCBs and congeners identified): shall not exceed 0.001 ug/l;
15	(17)	Radioactive substances:
16	. ,	(a) Combined radium-226 and radium-228: the average annual activity level (based on at least
17		one sample collected per quarter) for combined radium-226 and radium-228 shall not
18		exceed five picoCuries per liter;
19		(b) Alpha Emitters: the average annual gross alpha particle activity (including radium-226, but
20		excluding radon and uranium) shall not exceed 15 picoCuries per liter;
21		(c) Beta Emitters: the average annual activity level (based on at least one sample collected per
22		quarter) for strontium-90 shall not exceed eight picoCuries per liter, liter, nor shall the
23		average annual gross beta particle activity (excluding potassium-40 and other naturally
24		occurring radionuclides) exceed 50 picoCuries per <mark>liter;</mark> liter, nor shall the average annual
25		activity level for tritium exceed 20,000 picoCuries per liter;
26	(18)	Temperature: <u>shall</u> not to exceed 2.8 degrees C (5.04 degrees F) above the natural water temperature,
27		and shall in no case to exceed 29 degrees C (84.2 degrees F) for mountain and upper piedmont
28		waters and 32 degrees C (89.6 degrees F) for lower piedmont and coastal plain Waters; the
29		temperature for trout waters shall not be increased by more than 0.5 degrees C (0.9 degrees F) due
30		to the discharge of heated liquids, but and shall in no case to exceed 20 degrees C (68 degrees F);
31	(19)	Toluene: shall not exceed 11 ug/l or 0.36 ug/l in trout classified waters; waters or 11 ug/l in all
32		other waters:
33	(20)	Trialkyltin compounds: shall not exceed 0.07 ug/l expressed as tributyltin;
34	(21)	Turbidity: the turbidity in the receiving water shall not exceed 50 Nephelometric Turbidity Units
35		(NTU) in streams not designated as trout waters and 10 NTU in streams, lakes, or reservoirs
36		designated as trout waters; for lakes and reservoirs not designated as trout waters, the turbidity shall
37		not exceed 25 NTU; if turbidity exceeds these levels due to natural background conditions, the

1		existing turbidity level shall not be increased. Compliance with this turbidity standard can be shall
2		be deemed met when land management activities employ Best Management Practices (BMPs) [as
3		(BMPs), as defined by Rule .0202 of this Section Section, recommended by the Designated
4		Nonpoint Source Agency [as Agency, as defined by Rule .0202 of this Section]. Section. BMPs
5		shall be in full compliance with all specifications governing the proper design, installation,
6		operation, and maintenance of such BMPs; BMPs.
7	(22)	Action Levels for Toxic Substances Toxic Substance [Levels] Level Applicable to NPDES Permits:
8		(a) Copper, dissolved, chronic: 2.7 ug/l;
9		(b) Silver, dissolved, chronic: 0.06 ug/l;
10		(c) Zine, dissolved, chronic: 36 ug/l; and
11		(d) Chloride: 230 mg/l;
12		The hardness dependent freshwater action levels for copper and zinc, provided here for illustrative
13		purposes, corresponds to a hardness of 25 mg/l. Copper and zinc action level values for other
14		instream hardness values shall be calculated per the chronic equations specified in Item (11) of this
15		Rule and in Table A: Dissolved Freshwater Standards for Hardness Dependent Metals. If the action
16		levels <u>level</u> for any of the substances <u>substance</u> listed in this Item (which are is generally not
17		bioaccumulative and have has variable toxicity to aquatic life because of chemical form, solubility,
18		stream characteristics or associated waste characteristics) are is determined by the waste load
19		allocation to be exceeded in a receiving water by a discharge under the specified 7Q10 criterion for
20		toxic substances, the discharger shall monitor the chemical or biological effects of the discharge;
21		efforts shall be made by all dischargers to reduce or eliminate these substances <u>this substance</u> from
22		their effluents. Those substances The substance for which action levels are a level is listed in this
23		Item shall be limited as appropriate in the NPDES permit if sufficient information (to be determined
24		for metals by measurements of that portion of the dissolved instream concentration of the action
25		levels parameter attributable to a specific NPDES permitted discharge) exists to indicate that any of
26		those substances this substance may be a causative factor resulting in toxicity of the effluent.
27		
28	History Note:	Authority G.S. 143-214.1; 143-215.3(a)(1);
29		Eff. February 1, 1976;
30		Amended Eff. January 1, 2015; May 1, 2007; April 1, 2003; August 1, 2000; October 1, 1995;
31		August 1, 1995; April 1, 1994; February 1, 1993. <u>1993;</u>
32		Readopted Eff. September 1, 2019.

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0212

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

For purposes of clarity, please consider rewording lines 5-7 to say something like "All water supply watersheds classified as WS-I shall meet the standards set forth in Rule .0211 of this Subchapter and the following:" Assuming that this is the intent.

Is (1) really a standard and/or requirement or would it make sense to move that up to the introductory information? It looks to me that Item (1) really explains what this classification means and is applicable to and would be helpful to know at the outset. Do you have it here because of the reference to "best usage" in (2)?

In (1), line 13, I don't understand the reference to Class C waters. Is the intent here just to say that best usage of this classification could be specific to this Rule or to Class C rules?

What is the intent of lines 13-15? Please revise for purposes of clarity.

Delete (2)(a), (b), and (c) as being repetitive of Items (3), (4), and (5) as they are unnecessary. They each just say follow (3), (4), or (5) and do nothing more.

In (2)(d), what treatment required by the division? Is there a cross-reference available? Is this in the Permit?

In (2)(d), what are the National Drinking Water Regulations? I see that you've incorporated the State Rules, but what are these national standards?

In Item (2)(e), what is meant by "water pollution that preclude the best uses..."? How is this determined? Here do you just mean that it has to meet the requirements of this Rule and .0211 and if you don't then it's a violation? If that's the intent, is this necessary?

What is the intent of (2)(f)? Is this just informational in nature? If so, is the best placement for this under standards to be met? Should this be its own Item?

In (3)(f) and (g), please consider deleting "Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption" Why is it necessary to say "maximum permissible concentrations"? Isn't that language applicable to all similar rules, but it's not there?

In (3)(g), why say "maximum permissible concentrations"? Isn't that language applicable to all similar rules, but it's not there?

1	15A NCAC 02B .02	212 is readopted	as published i	n 32:22 NC	R 2411-2493	with changes as	follows:	
2							_	
3	15A NCAC 02B .0			WATER	QUALITY	STANDARDS	FOR	CLASS WS-I
4		WATER						
5	The following water	1						
6	Water quality stand	lards applicable	to Class C wa	ters as desc	cribed in Rule	e .0211 of this Se	ection sh	all also apply to
7	Class WS-I waters.							
8		•				f water supply for		-
9			•		•	um protection of		
10			-	-	•	usage specified f		
11	<mark>U</mark>	sage of Waters:]	<u>The best usag</u>	ge of waters	classified as	WS-I shall be as	a source	of water supply
12				• •	-	-		um protection of
13	<u>th</u>	eir water supplie	s <mark>in the form o</mark>	of the most	stringent WS	classification, an	<mark>d</mark> any bo	est usage
14	<u>st</u>	pecified for Class	<u>C [waters;</u>] <u>w</u>	vaters, wate	rs located on	land in public <mark>[ov</mark>	wnership] ownership,
15	<u>a</u> 1	nd <mark>waters located</mark>	in undevelop	ed watershe	eds.			
16	(2) T	he conditions rel	ated to the bes	st usage sha	ll be as follow	vs: waters of this	class ar	e protected water
17	SI	supplies within essentially natural and undeveloped watersheds in public ownership with no						
18	P	permitted point source dischargers except those specified in Rule .0104 of this Subchapter; waters						
19	w	within this class shall be relatively unimpacted by nonpoint sources of pollution; land use						
20	m	anagement prog	rams are requ i	ired to prote	ect waters fro	m nonpoint sourc	ce pollu	tion; [Conditions
21	R	<mark>elated to Best U</mark> s	<mark>age:</mark>] <u>The best</u>	t usage of w	vaters classific	ed as WS-I shall b	<mark>be maint</mark>	ained as follows:
22	<u>(a</u>	<u>()</u> <u>Chemica</u>	and physical	l water qua	ality paramet	ers in a WS-I w	vatershee	<u>d shall meet <mark>the</mark></u>
23		<u>requirem</u>	ents as specific	ed in Item (3) of this Rul	e.		
24	<u>(t</u>	<u>)</u> <u>Wastewa</u>	ter and stormy	water point	source discha	arges in a WS-I	watershe	ed shall meet <mark>the</mark>
25		<u>requirem</u>	ents as specific	ed in Item (4) of this Rul	<u>e.</u>		
26	<u>(c</u>	<u>Nonpoint</u>	source polluti	ion in a WS	-I watershed	shall meet <mark>the</mark> req	uiremen	ts as specified in
27		<u>Item (5)</u>	of this Rule.					
28	(0	<u>l)</u> the <mark>[The</mark>]	waters, follow	<mark>ving</mark> <u>Follow</u>	ving treatment	required by the l	Division	, <u>the waters</u> shall
29		meet the	Maximum C	Contaminan	t Level conc	entrations consid	dered sa	ife for drinking,
30		culinary,	and food-proc	cessing pur	poses that are	e specified in the	nationa	l drinking water
31		regulation	ns and in the N	orth Caroli	na Rules Gov	erning Public Wa	ter Supp	olies, 15A NCAC
32		18C .15(0. <u>.1500, <mark>[wh</mark></u>	nich are he	<mark>reby</mark>] incorpo	rated by referen	ce inclu	ding subsequent
33		amendme	ents and edition	<u>ns.</u>				
34	<u>(e</u>	<u>e)</u> Sources of	of water pollut	tion that pro	eclude any of	these the best us	es <mark>on ei</mark>	ther a short-term
35		<mark>or long-t</mark>	<mark>erm basis</mark> shal	ll be <mark>consid</mark>	ered to be vi	olating deemed to	<mark>o violat</mark>	e a water quality
36		standard.						

1	<u>(f)</u>	The Class WS-I classification may be used to protect portions of Class WS-II, WS-III, and
2		WS-IV water supplies. For reclassifications occurring after the July 1, 1992 statewide
3		reclassification, the more protective classification a WS-I classification that is requested
4		by local governments shall be considered by the Commission when <u>if</u> all local governments
5		having jurisdiction in the affected area(s) areas have adopted a resolution and the
6		appropriate ordinances as required by G.S. 143-214.5(d) to protect the watershed or if the
7		Commission acts to protect a watershed when one or more local governments has failed to
8		adopt necessary protection measures; protective measures as required by this Sub-Item.
9	(3) Quality	y standards applicable to Class WS-I Waters shall be as follows: Chemical and physical water
10	quality	parameters in a WS-I watershed shall meet the following requirements:
11	(a)	MBAS (Methylene-Blue Active Substances): not greater than Substances) shall not exceed
12		0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;
13	(b)	Nonpoint Source Pollution: none shall be allowed that would adversely impact the waters
14		for use as a water supply or any other designated use;
15	(c) (b)	Organisms of coliform group: total Total coliforms shall not to exceed 50/100 ml (MF
16		count) as a monthly geometric mean value in watersheds serving as unfiltered water
17		supplies;
18	(d)(c)	Chlorinated phenolic compounds: not greater than compounds shall not exceed 1.0 ug/l to
19		protect water supplies from taste and odor problems from chlorinated phenols;
20	(e)	Sewage, industrial wastes: none shall be allowed except those specified in Item (2) of this
21		Rule or Rule .0104 of this Subchapter;
22	(<u>f)(d)</u>	Solids, total dissolved: not greater than dissolved shall not exceed 500 mg/l;
23	(<u>g)(e)</u>	Total hardness: not greater than hardness shall not exceed 100 mg/l as calcium carbonate
24		$(CaCO_3 \text{ or } Ca + Mg);$
25	(<u>h)(f)</u>	Toxic and other deleterious substances:
26	(-)(-)	(i) Water quality standards (maximum permissible concentrations) to protect human health
27		through water consumption and fish tissue consumption for non-carcinogens in Class WS I
28		waters: [non-carcinogens:] toxic and other deleterious substances that are non-carcinogens
29		shall not exceed the following:
30		$\frac{(A)(i)}{(A)(i)} \qquad \text{Barium: 1.0 mg/l;}$
31		$\frac{(B)(ii)}{(B)(ii)} \text{Chloride: 250 mg/l;}$
32		$\frac{(\mathbf{C})(\mathbf{iii})}{(\mathbf{C})(\mathbf{iii})}$ Nickel: 25 ug/l;
33		(D)(iv) Nitrate nitrogen: 10.0 mg/l;
33 34		$\frac{(\mathbf{D}_{1}(\mathbf{v})}{(\mathbf{E}_{1}(\mathbf{v}))}$ 2,4-D: 70 ug/l;
34 35		
		$\frac{(F)(vi)}{(C)(vii)} = 2,4,5-\text{TP} \text{ (Silvex): 10 ug/l; and}$
36		(G)(vii) Sulfates: 250 mg/l;

1		(g) (ii) Water d	quality standards (maximum permissible concentrations) to protect human health
2		through w	vater consumption and fish tissue consumption for carcinogens in Class WS I
3		waters: [e	arcinogens:] toxic and other deleterious substances that are carcinogens shall not
4		exceed the	e following:
5		(<u>A)(i)</u>	Aldrin: 0.05 ng/1;
6		(B)(ii)	Arsenic: 10 ug/l;
7		(C)(iii)	Benzene: 1.19 ug/1;
8		(D)(iv)	Carbon tetrachloride: 0.254 ug/l;
9		(E)(v)	Chlordane: 0.8 ng/1;
10		(<u>F)(vi)</u>	Chlorinated benzenes: 488 ug/l;
11		(G)(vii)	DDT: 0.2 ng/1;
12		(H)(viii)	Dieldrin: 0.05 ng/1;
13		(<u>I)(ix)</u>	Dioxin: 0.000005 ng/l;
14		(<mark>J)(x)</mark>	Heptachlor: 0.08 ng/1;
15		<mark>(K)(xi)</mark>	Hexachlorobutadiene: 0.44 ug/l;
16		(L)(xii)	Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;
17		(<mark>M)(xiii)</mark>	Tetrachloroethane (1,1,2,2): 0.17 ug/l;
18		(N)(xiv)	Tetrachloroethylene: 0.7 ug/l;
19		((O)(xv)	Trichloroethylene: 2.5 ug/l; and
20		(P)(xvi)	Vinyl Chloride: 0.025 ug/l.
21	<u>(4)</u>	Wastewater and sto	ormwater point source discharges in a WS-I watershed shall [meet the following
22		requirements: Poin	t source discharges shall] be permitted pursuant to 15A NCAC 02B .0104.
23	<u>(5)</u>	Nonpoint source po	ollution in a WS-I watershed [shall meet the following requirements: Nonpoint
24		sources of pollutio	n] shall not have an adverse impact, as defined in 15A NCAC 02H .1002, on
25		[waters within this	class.] use as a water supply or any other designated use.
26			
27	History Note:	Authority G.S. 143-	-214.1; 143-215.3(a)(1);
28		Eff. February 1, 19	76;
29		Amended Eff. Janu	ary 1, 2015; May 1, 2007; April 1, 2003; October 1, 1995; February 1, 1993;
30		March 1, 1991; Oc	tober 1, 1989. <u>1989:</u>
31		<u>Readopted Eff. Sep</u>	<u>tember 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0214

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

For purposes of clarity, please consider rewording lines 5-7 to say something like "All water supply watersheds classified as WS-II shall meet the standards set forth in Rule .0211 of this Subchapter and the following:" Assuming that this is the intent.

Is (1) really a standard and/or requirement or would it make sense to move that up to the introductory information? It looks to me that Item (1) really explains what this classification means and is applicable to and would be helpful to know at the outset.

In Item (1), when would WS-I classification "not be feasible"? As determined by whom? If it's y'all, how is this to be determined? If not, can you provide some examples?

In (1), line 14, I don't understand the reference to Class C waters.

Delete (2)(a), (b), and (c) as being repetitive of Items (3), (4), and (5) as they are unnecessary. They each just say follow (3), (4), or (5) and do nothing more.

In (2)(d), what treatment required by the division? Is there a cross-reference available? Is this in the Permit?

In (2)(d), what are the National Drinking Water Regulations? I see that you've incorporated the State Rules, but what are these national standards?

In Item (2)(e), what is meant by "water pollution that preclude the best uses..."? How is this determined? Is it necessary?

What is the intent of (2)(f)? Is this just informational in nature? If so, is this the best placement for this? Should this be its own Item?

In (3)(b), did you intend on turning this into a complete sentence or keeping the colon. Please be consistent where you can. Did you intend to add "shall be allowed"?

In (3)(b), what are "taste and odor difficulties"?

In (3)(b), what is considered to be a "deleterious effect"? Is this defined somewhere? Is the same as adverse impact? If so, please be consistent.

In (3)(f) and (g), please consider deleting "Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption" Why is it necessary to say "maximum permissible concentrations"?

In (4)(d), please end the sentence after "Subchapter" and begin a new sentence with "none."

In (4)(d), is an "adverse effect" the same thing as "adverse impact"? If so, please be consistent in your terminology. If that is the case, please delete "as defined in .1002" in (5)(a) since that's not the first time this term is used.

On line 2, either delete "to the satisfaction of the Commission" or say how this will be determined.

On line 3, what are "the requirements of the Division"?

In (4)(d), when would a facility be required to have control plans? Is this set out in the permit? Is there a cross-reference available? If not, please provide information on how this determination is to be made.

(5)(a) appears to be missing a word. Please review and clarify.

1 2										
3	15A NCAC 02B	.0214	FRESH	SURFACE	WATER	QUALITY	STANDARDS	FOR	CLASS	WS-II
4			WATER	S						
5	The following water quality standards shall apply to surface waters within water supply watersheds classified as									
6	WS-II. Water qu	ality stan	idards appl	icable to Clas	s C waters a	s described in	Rule .0211of thi	is Sectio	on shall als	so apply
7	to Class WS-II w	vaters.								
8	(1) The best usage of WS II waters are as follows: a source of water supply for drinking, culinary, or									
9		food pr	ocessing p	ourposes for t	hose users	desiring max	imum protection	for the	eir water s	supplies
10		where a	a WS-I cla	ssification is a	not feasible	and any best	usage specified	for Clas	ss C water	s; [Best
11		<mark>Usage (</mark>	of Waters:]	The best usag	ge of waters	classified as	WS-II shall be as	a sourc	e of water	<u>c supply</u>
12		for drin	king, culin	ary, or food-p	processing p	urposes for the	ose users desiring	<u>y maxim</u>	<u>ium protec</u>	tion for
13		their wa	ater supplie	es where a WS	-I classifica	tion is not feas	sible and any best	usage s	specified for	<u>or Class</u>
14		C water	<u>rs.</u>							
15	(2)	The con	nditions-re	lated to the b	est usage s l	hall be as foll	ows: waters of t	his clas	s are prote	ected as
16		water s	upplies wł	nich are in pro	edominantly	-undeveloped	l watersheds and	meet a	werage wa	ıtershed
17		develop	oment-dens	sity levels as	specified in	n Sub-Items (3)(b)(i)(A), (3)(b)(i)(B),	- (3)(b)(ii)((A) and
18		(3)(b)(ii)(B) of this Rule; discharges that qualify for a General Permit pursuant to 15A NCAC 02H								
19		.0127, trout farm discharges, recycle (closed loop) systems that only discharge in response to								
20		10 year storm events and other stormwater discharges shall be allowed in the entire watershed; new								
21		domest	ic and inc	lustrial disch	arges of tr	eated wastew	ater shall not b	e allov	ved in the	3 entire
22		watersh	red; [Cond	itions Related	to Best Us	age:] <u>The bes</u>	t usage of waters	classifi	ied as WS-	<u>-II shall</u>
23		<u>be mair</u>	ntained as f	<u>follows:</u>						
24		<u>(a)</u>	Chemica	l and physic	<u>al water q</u>	uality parame	eters in a WS-I	II wate	rshed sha	<u>ll meet</u>
25			<u>requirem</u>	ents as specif	ied in Item	(3) of this Rul	<u>e.</u>			
26		<u>(b)</u>	<u>Wastewa</u>	ter and storn	nwater poir	t source disc	harges in a WS	-II wate	ershed sha	<u>ıll meet</u>
27			-	-		(4) of this Rul				
28		<u>(c)</u>	<u>Nonpoin</u>	t source pollu	tion in a W	S-II watershee	d shall meet <mark>the</mark> 1	requirer	<u>nents as s</u>	pecified
29			<u>in Item (</u>	5) of this Rule	<u>.</u>					
30		<u>(d)</u>	the [The]	waters, follo	wing <u>Follov</u>	ving treatment	t required by the	Divisio	n, <u>the wate</u>	<mark>ers</mark> shall
31			meet the	Maximum (Contaminar	t Level conc	entrations consi	dered s	afe for d	rinking,
32			culinary,	and food-pro	cessing put	rposes that are	e specified in the	e nation	al drinkin	g water
33			•				erning Public Wa	-	-	
34			18C .15()0. <u>.1500, <mark>[₩</mark></u>	hi <mark>ch are he</mark>	weby] incorpo	orated by referen	ice incl	<u>uding</u> sub	<u>sequent</u>
35			amendme	ents and edition	ons.					

1		<u>(e)</u>	Sources	of water	pollution that preclude any of these the best uses on either a short-term
2			<mark>or long-</mark>	term bas	is shall be considered to be violating deemed to violate a water quality
3			standard	l.	
4		<u>(f)</u>	The Cla	ss WS-II	classification may be used to protect portions of Class WS-III and WS-IV
5			water su	pplies. F	or reclassifications of these portions of Class WS-III and WS-IV water
6			supplies	occurrin	g after the July 1, 1992 statewide reclassification, the more protective a
7			<u>WS-II</u> c	lassificat	ion that is requested by local governments shall be considered by the
8			Commis	ssion <mark>whe</mark>	<mark>n</mark> <u>if</u> all local governments having jurisdiction in the affected area(s) areas
9			have ad	opted a re	solution and the appropriate ordinances as required by G.S. 143-214.5(d)
10			to protec	et the wat	ershed or <mark>if</mark> the Commission acts to protect a watershed when one or more
11			local go	vernment	ts has failed to adopt necessary protection measures; protective measures
12			as requi	red by thi	is Sub-Item.
13	(3)	Quality	standards	applicab	le to Class WS-II Waters shall be as follows: Chemical and physical water
14		<u>quality p</u>	arameter	rs in a W	S-II watershed shall meet the following requirements:
15		(a)	Sewage	, industria	al wastes, non process industrial wastes, or other wastes: none shall be
16			allowed	except f	or those specified in either Item (2) of this Rule and Rule .0104 of this
17			Subchap	eter; none	shall be allowed that have an adverse effect on human health or that are
18			not treat	ed to the	satisfaction of the Commission and in accordance with the requirements
19			of the I	Division.	Any discharger shall be required upon request by the Commission to
20			disclose	all cher	mical constituents present or potentially present in their wastes and
21			chemica	ls that co	ould be spilled or be present in runoff from their facility that may have an
22			adverse	impact or	n downstream water quality. These facilities may be required to have spill
23			and trea	atment fa	vilure control plans as well as perform special monitoring for toxic
24			substand	es;	
25		(b)	Nonpoin	nt Source	and Stormwater Pollution: none that would adversely impact the waters
26			for use a	is a wate r	- supply or any other designated use;
27			(i)	Nonpoir	at Source and Stormwater Pollution Control Criteria for Entire Watershed:
28				(A)	Low Density Option: development density shall be limited to either no
29					more than one dwelling unit per acre of single family detached
30					residential development (or 40,000 square foot lot excluding roadway
31					right of way), or 12 percent built upon area for all other residential and
32					non residential development in the watershed outside of the critical area;
33					stormwater runoff from the development shall be transported by
34					vegetated conveyances to the maximum extent practicable;
35				(B)	High Density Option: if new development exceeds the low density
36					option requirements as stated in Sub-Item (3)(b)(i)(A) of this Rule, then
37					engineered stormwater controls shall be used to control runoff from the

1		first in	ch of rainfall; new residential and non residential development
2		shall no	ot exceed 30 percent built upon area;
3	(C)	Land w	vithin the watershed shall be deemed compliant with the density
4		require	ments if the following condition is met: the density of all existing
5		develoj	pment at the time of reclassification does not exceed the density
6		require	ment when densities are averaged throughout the entire watershed
7		area at	the time of classification;
8	(D)	Cluster	development shall be allowed on a project by project basis as
9		follows	÷
10		(I)	overall density of the project meets associated density or
11			stormwater control requirements of this Rule;
12		(II)	buffers meet the minimum statewide water supply watershed
13			protection requirements;
14		(III)	built upon areas shall be designed and located to minimize
15			stormwater runoff impact to the receiving waters, minimize
16			concentrated stormwater flow, maximize the use of sheet flow
17			through vegetated areas, and maximize the flow length through
18			vegetated areas;
19		(IV)	areas of concentrated development shall be located in upland
20			areas and away, to the maximum extent practicable, from
21			surface waters and drainageways;
22		(V)	remainder of tract to remain in vegetated or natural state;
23		(VI)	area in the vegetated or natural state may be conveyed to a
24			property owners association, a local government for
25			preservation as a park or greenway, a conservation
26			organization, or placed in a permanent conservation or farmland
27			preservation easement;
28		(VII)	a maintenance agreement for the vegetated or natural area shall
29			be filed with the Register of Deeds; and
30		(VIII)	eluster development that meets the applicable low density
31			option requirements shall transport stormwater runoff from the
32			development by vegetated conveyances to the maximum extent
33			practicable;
34	(E)	A maxi	mum of 10 percent of each jurisdiction's portion of the watershed
35		outside	of the critical area as delineated on July 1, 1993 may be
36		develop	ped with new development projects and expansions of existing
37		develop	pment of up to 70 percent built upon surface area (the "10/70

1		option") in addition to the new development approved in compliance
2		with the appropriate requirements of Sub Item (3)(b)(i)(A) or Sub Item
3		(3)(b)(i)(B) of this Rule. For expansions to existing development, the
4		existing built upon surface area shall not be counted toward the allowed
5		70 percent built upon surface area. A local government having
6		jurisdiction within the watershed may transfer, in whole or in part, its
7		right to the 10/70 option land area to another local government within
8		the watershed upon submittal of a joint resolution and review by the
9		Commission. When the water supply watershed is composed of public
10		lands, such as National Forest land, local governments may count the
11		public land acreage within the watershed outside of the critical area in
12		calculating the acreage allowed under this provision. For local
13		governments that do not choose to use the high density option in that
14		WS-II watershed, each project shall, to the maximum extent practicable,
15		minimize built upon surface area, direct stormwater runoff away from
16		surface waters, and incorporate best management practices, as defined in
17		Rule .0202 of this Section, to minimize water quality impacts. If the local
18		government selects the high density development option within that
19		WS-II watershed, then engineered stormwater controls shall be
20		employed for the new development;
21	(F)	If local governments choose the high density development option that
22		requires stormwater controls, then they shall assume ultimate
23		responsibility for operation and maintenance of the required controls as
24		outlined in Rule .0104 of this Subchapter;
25	(G)	A minimum 100 foot vegetative buffer shall be required for all new
26		development activities that exceed the low density option requirements
27		as specified in Sub Items (3)(b)(i)(A) and Sub Item (3)(b)(ii)(A) of this
28		Rule, otherwise a minimum 30 foot vegetative buffer for development
29		activities shall be required along all perennial waters indicated on the
30		most recent versions of U.S.G.S. U.S. Geological Survey 1:24,000 (7.5
31		minute) scale topographic maps or as determined by local government
32		studies. Nothing in this Rule shall stand as a bar to artificial streambank
33		or shoreline stabilization;
34	(H)	No new development shall be allowed in the buffer; water dependent
35		structures, or other structures such as flag poles, signs, and security
36		lights, which result in only de minimus increases in impervious area and
37		public projects such as road crossings and greenways may be allowed

1			where no practicable alternative exists. These activities shall minimize
2			built upon surface area and avoid channelizing stormwater;
3		(1)	No National Pollutant Discharge Elimination System (NPDES) permits
4			shall be issued for landfills that discharge treated leachate;
5		(ii) Critica	Area Nonpoint Source and Stormwater Pollution Control Criteria:
6		(A)	Low Density Option: new development shall be limited to either no more
7			than one dwelling unit of single family detached residential development
8			per two acres (or 80,000 square foot lot excluding roadway right of
9			way), or six percent built upon area for all other residential and
10			non residential development; stormwater runoff from the development
11			shall be transported by vegetated conveyances to the maximum extent
12			practicable;
13		(B)	High Density Option: if new development density exceeds the low
14			density requirements specified in Sub Item (3)(b)(ii)(A) of this Rule,
15			then engineered stormwater controls shall be used to control runoff from
16			the first inch of rainfall; new residential and non residential development
17			density shall not exceed 24 percent built upon area;
18		(C)	No new permitted sites for land application of residuals or petroleum
19			contaminated soils shall be allowed;
20		(D)	No new landfills shall be allowed;
21	(<u>c)(a)</u>	MBAS (Methyle	ene-Blue Active Substances): not greater than Substances) shall not exceed
22		0.5 mg/l to prote	ect the aesthetic qualities of water supplies and to prevent foaming;
23	(d)<u>(b)</u>	Odor producing	g substances contained in sewage or other wastes: only such amounts,
24		whether alone o	r in combination with other substances or wastes, as shall not cause taste
25		and odor difficu	ilties in water supplies that cannot be corrected by treatment, impair the
26		palatability of fi	sh, or have a deleterious effect upon any best usage established for waters
27		of this class;	
28	<u>(e)(c)</u>	Chlorinated phe	nolic compounds: not greater than <u>compounds shall not exceed</u> 1.0 ug/l to
29		protect water su	pplies from taste and odor problems from chlorinated phenols;
30	(<u>f)(d)</u>	Total hardness:	not greater than hardness shall not exceed 100 mg/l as calcium carbonate
31		(CaCO ₃ or Ca +	Mg);
32	<u>(g)(e)</u>	Total dissolved	solids: not greater than solids shall not exceed 500 mg/l;
33	(<u>h)(f)</u>	Toxic and other	deleterious substances:
34		<mark>(i)</mark> Water quality	standards (maximum permissible concentrations) to protect human health
35		through water of	consumption and fish tissue consumption for non-carcinogens in Class
36		WS-II-waters:	[non careinogens:] toxic and other deleterious substances that are non-
37		carcinogens sha	ll not exceed the following:

1			(<u>A)(i)</u>	Barium: 1.0 mg/l;
2			(B)(ii)	Chloride: 250 mg/l;
3			(<u>C)(iii)</u>	Nickel: 25 ug/l;
4			(D)(iv)	Nitrate nitrogen: 10.0 mg/l;
5			(<u>E)(v)</u>	2,4-D: 70 ug/l;
6			(F)(vi)	2,4,5-TP (Silvex): 10 ug/l; and
7			(G)(vii)	Sulfates: 250 mg/l;
8		<mark>(g)</mark>	<mark>(ii)</mark> Water	quality standards (maximum permissible concentrations) to protect human health
9			through v	vater consumption and fish tissue consumption for carcinogens in Class WS-II
10			waters: [arcinogens:] toxic and other deleterious substances that are carcinogens shall not
11			exceed th	e following:
12			<mark>(A)(i)</mark>	Aldrin: 0.05 ng/1;
13			<mark>(B)(ii)</mark>	Arsenic: 10 ug/l;
14			<mark>(C)(iii)</mark>	Benzene: 1.19 ug/1;
15			<mark>(D)(iv)</mark>	Carbon tetrachloride: 0.254 ug/l;
16			<mark>(E)(v)</mark>	Chlordane: 0.8 ng/1;
17			<mark>(F)(vi)</mark>	Chlorinated benzenes: 488 ug/l;
18			(G)(vii)	DDT: 0.2 ng/1;
19			(H)(viii)	Dieldrin: 0.05 ng/1;
20			(<u>I)(ix)</u>	Dioxin: 0.000005 ng/l;
21			<mark>(J)(x)</mark>	Heptachlor: 0.08 ng/1;
22			<mark>(K)(xi)</mark>	Hexachlorobutadiene: 0.44 ug/l;
23			(L)(xii)	Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;
24			(M)(xiii)	Tetrachloroethane (1,1,2,2): 0.17 ug/l;
25			(N)(xiv)	Tetrachloroethylene: 0.7 ug/l;
26			<mark>(O)(xv)</mark>	Trichloroethylene: 2.5 ug/l; and
27			(P)(xvi)	Vinyl Chloride: 0.025 ug/l.
28	<u>(4)</u>	Waster	water and st	ormwater point source discharges in a WS-II watershed shall meet the following
29		require	ements:	
30		<u>(a)</u>	Discharg	es that qualify for a General NPDES Permit pursuant to 15A NCAC 02H .0127
31			<u>shall be a</u>	llowed in the entire watershed.
32		<u>(b)</u>	Discharg	es from trout farms that are subject to Individual NPDES Permits shall be allowed
33			in the ent	ire watershed.
34		<u>(c)</u>	<u>Stormwa</u>	ter discharges that qualify for an Individual NPDES Permit pursuant to 15A
35			NCAC 02	2H .0126 shall be allowed in the entire watershed.
36		<u>(d)</u>	<u>No disch</u>	arge of sewage, [industrial] industrial, or other wastes shall be allowed in the
37			entire wa	tershed except for those allowed by Sub-Items <mark>[(4)(a)] (a)</mark> through <mark>[(4)(e)] (c)</mark> of

1			this [Rule] Item or Rule .0104 of this Subchapter; none shall be allowed that have an
2			adverse effect on human health or that are not treated to the satisfaction of the Commission
3			and in accordance with the requirements of the Division. Upon request by the Commission.
4			a [Any] discharger shall [be required upon request by the Commission to] disclose all
5			chemical constituents present or potentially present in their wastes and chemicals that could
6			be spilled or be present in runoff from their facility that may have an adverse impact on
7			downstream water quality. These facilities may be required to have spill and treatment
8			failure control plans as well as perform special monitoring for toxic substances.
9		<u>(e)</u>	New domestic and industrial discharges of treated wastewater that are subject to Individual
10			NPDES Permits shall not be allowed in the entire watershed.
11		<u>(f)</u>	No new landfills shall be allowed in the Critical Area, and no NPDES permits shall be
12			issued for landfills that discharge treated leachate in the remainder of the watershed.
13		<u>(g)</u>	No new permitted sites for land application of residuals or petroleum contaminated soils
14			shall be allowed in the Critical Area.
15	<u>(5)</u>	<u>Nonpo</u>	int source pollution in a WS-II watershed shall meet the following requirements:
16		<u>(a)</u>	None that would have an adverse impact, as that term is defined in 15A NCAC 02H .1002,
17			on waters for use as a water supply or any other designated use.
18		<u>(b)</u>	[Waters of this class] Class WS-II waters shall be protected as water supplies that are
19			located in watersheds that meet average watershed development density levels specified
20			for Class WS-II waters in Rule .0624 of this Subchapter.
21			
22	History Note:	Author	rity G.S. 143-214.1; 143-215.3(a)(1);
23		Eff. Me	ay 10, 1979;
24		Amena	led Eff. January 1, 2015; May 1, 2007; April 1, 2003; January 1, 1996; October 1, 1995.
25		<u>1995;</u>	
26		<u>Reado</u>	<u>pted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0215

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

For purposes of clarity, please consider rewording lines 5-7 to say something like "All water supply watersheds classified as WS-III shall meet the standards set forth in Rule .0211 of this Subchapter and the following:" Assuming that this is the intent.

Is (1) really a standard and/or requirement or would it make sense to move that up to the introductory information? It looks to me that Item (1) really explains what this classification means and is applicable to and would be helpful to know at the outset.

In Item (1), when would WS-1 or WS-II classification "not be feasible"? As determined by whom? If it's y'all, how is this to be determined? If not, can you provide some examples?

In (1), line 13, I don't understand the reference to Class C waters.

Delete (2)(a), (b), and (c) as being repetitive of Items (3), (4), and (5) as they are unnecessary. They each just say follow (3), (4), or (5) and do nothing more.

In (2)(d), what treatment required by the division? Is there a cross-reference available? Is this in the Permit?

In (2)(d), what are the National Drinking Water Regulations? I see that you've incorporated the State Rules, but what are these national standards?

In Item (2)(e), what is meant by "water pollution that preclude the best uses..."? How is this determined? Is it necessary?

What is the intent of (2)(f)? Is this just informational in nature? If so, is this the best placement for this? Should this be its own Item?

In (3)(b), did you intend on turning this into a complete sentence or keeping the colon. Please be consistent where you can. Did you intend to add "shall be allowed"?

In (3)(b), what are "taste and odor difficulties"?

In (3)(b), what is considered to be a "deleterious effect"? Is this defined somewhere? Is this the same as adverse impact?

In (3)(f) and (g), please consider deleting "Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption" Why is it necessary to say "maximum permissible concentrations"?

In (4)(f), please end the sentence after "Subchapter" and begin a new sentence with "none."

In (4)(f), is an "adverse effect" the same thing as "adverse impact"? If so, please be consistent in your terminology. If that is the case, please delete "as defined in .1002" in (5)(a) since that's not the first time this term is used.

On line 4, either delete "to the satisfaction of the Commission" or say how this will be determined.

On line 5, what are "the requirements of the Division"?

In (4)(d), when would a facility be required to have control plans? Is this set out in the permit? Is there a cross-reference available? If not, please provide information on how this determination is to be made.

In (4)(f), is an "adverse effect" the same thing as "adverse impact"? If so, please be consistent in your terminology. If that is the case, please delete "as defined in .1002" in (5)(a) since that's not the first time this term is used.

(5)(a) appears to be missing a word. Please review and clarify.

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15A NCAC 02B .0215 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

3 15A NCAC 02B .0215 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS WS-III 4 WATERS

5 The following water quality standards shall apply to surface waters within water supply watersheds classified as 6 WS-III. Water quality standards applicable to Class C waters as described in Rule .0211 of this Section shall also 7 apply to Class WS-III waters.

- 8 (1)The best usage of WS-III waters are as follows: a source of water supply for drinking, culinary, or 9 food processing purposes for those users where a more protective WS I or WS II classification is 10 not feasible and any other best usage specified for Class C waters; [Best Usage of Waters:] The best 11 usage of waters classified as WS-III shall be as a source of water supply for drinking, culinary, or 12 food-processing purposes for those users where a more protective WS-I or WS-II classification is 13 not feasible and any other best usage specified for Class C waters.
- 14 (2)The conditions related to the best usage shall be as follows: waters of this class are protected as 15 water supplies that are in low to moderately developed watersheds and meet average watershed development density levels as specified in Sub Items (3)(b)(i)(A), (3)(b)(i)(B), (3)(b)(ii)(A) and 16 (3)(b)(ii)(B) of this Rule: discharges that qualify for a General Permit pursuant to 15A NCAC 2H 17 18 .0127, trout farm discharges, recycle (closed loop) systems that only discharge in response to 19 10 year storm events, and other stormwater discharges shall be allowed in the entire watershed; 20 treated domestic wastewater discharges shall be allowed in the entire watershed but no new domestic 21 wastewater discharges shall be allowed in the critical area; no new industrial wastewater discharges 22 except non process industrial discharges shall be allowed in the entire watershed; [Conditions 23 Related to Best Usage: The best usage of waters classified as WS-III shall be maintained as follows:
- 24 Chemical and physical water quality parameters in a WS-III watershed shall meet (a) 25 requirements as specified in Item (3) of this Rule.
 - Wastewater and stormwater point source discharges in a WS-III watershed shall meet (b) requirements as specified in Item (4) of this Rule.

28 <u>(c)</u> Nonpoint source pollution in a WS-III watershed shall meet the requirements as specified 29 in Item (5) of this Rule.

the [The] waters, following Following treatment required by the Division, the waters shall 30 (d) 31 meet the Maximum Contaminant Level concentrations considered safe for drinking, 32 culinary, or food-processing purposes that are specified in the national drinking water 33 regulations and in the North Carolina Rules Governing Public Water Supplies, 15A NCAC 34 18C .1500. 1500 [which are hereby] incorporated by reference including any subsequent 35 amendments and editions.

1		(a)	Source	a of water	r pollution that preclude any of these the best uses on either a short-term
		<u>(e)</u>			ris shall be considered to be violating deemed to violate a water quality
2					sis shall be considered to be violating deemed to violate a water quality
3		(0)	standar		
4		<u>(f)</u>			II classification may be used to protect portions of Class WS-IV water
5					elassifications of these portions of WS-IV water supplies occurring after
6			_		statewide reclassification, the more protective <u>a WS-II</u> classification that
7			<u>is</u> reque	ested by lo	ocal governments shall be considered by the Commission when if all local
8			governi	ments hav	ring jurisdiction in the affected area(s) areas have adopted a resolution and
9			the app	ropriate o	ordinances as required by G.S. 143-214.5(d) to protect the watershed or if
10			the Cor	nmission	acts to protect a watershed when one or more local governments has failed
11			to adop	t necessar	ry protection measures;
12	(3)	Quality	standare	ls applica	ble to Class WS-III Waters shall be as follows: Chemical and physical
13		water c	uality par	rameters i	in a WS-III watershed shall meet the following requirements:
14		(a)	Sewage	, industri	al wastes, non process industrial wastes, or other wastes: none shall be
15			allowed	l except	for those specified in Item (2) of this Rule and Rule .0104 of this
16			Subcha	pter; none	e shall be allowed that have an adverse effect on human health or that are
17			not trea	ted to the	satisfaction of the Commission and in accordance with the requirements
18			of the	Division.	Any discharger may be required by the Commission to disclose all
19			chemic	al constitu	uents present or potentially present in their wastes and chemicals that could
20					present in runoff from their facility that may have an adverse impact on
21			-	-	er quality. These facilities may be required to have spill and treatment
22					ans as well as perform special monitoring for toxic substances;
23		(b)			and Stormwater Pollution: none that would adversely impact the waters
24			-		supply or any other designated use;
25			(i)		nt Source and Stormwater Pollution Control Criteria For Entire
26				Watersł	
27				(A)	Low Density Option: development density shall be limited to either no
28					more than two dwelling units of single family detached residential
29					development per acre (or 20,000 square foot lot excluding roadway right-
30					of way), or 24 percent built upon area for all other residential and
31					non residential development in watershed outside of the critical area;
32					stormwater runoff from the development shall be transported by
33					vegetated conveyances to the maximum extent practicable;
33 34				(B)	High Density Option: if new development density exceeds the low
34 35				(म)	
					density option requirements specified in Sub Item $(3)(b)(i)(A)$ of this Dule then density and the function of the function o
36					Rule then development shall control runoff from the first inch of rainfall;

1		new re	sidential and non residential development shall not exceed 50
2			built upon area;
2	(C)	-	*
	(C)		vithin the watershed shall be deemed compliant with the density
4		-	ments if the following condition is met: the density of all existing
5		-	pment at the time of reclassification does not exceed the density
6			ment when densities are averaged throughout the entire watershed
7) Cluster development shall be allowed on a project by project
8		basis as	s follows:
9		(1)	overall density of the project meets associated density or
10			stormwater control requirements of this Rule;
11		(II)	buffers meet the minimum statewide water supply watershed
12			protection requirements;
13		(III)	built upon areas shall be designed and located to minimize
14			stormwater runoff impact to the receiving waters, minimize
15			concentrated stormwater flow, maximize the use of sheet flow
16			through vegetated areas, and maximize the flow length through
17			vegetated areas;
18		(IV)	areas of concentrated development shall be located in upland
19			areas and away, to the maximum extent practicable, from
20			surface waters and drainageways;
21		(V)	remainder of tract to remain in vegetated or natural state;
22		(VI)	area in the vegetated or natural state may be conveyed to a
23			property owners association, a local government for
24			preservation as a park or greenway, a conservation
25			organization, or placed in a permanent conservation or farmland
26			preservation easement;
27		(VII)	a maintenance agreement for the vegetated or natural area shall
28			be filed with the Register of Deeds; and
29		(VIII)	cluster development that meets the applicable low density
30			option requirements shall transport stormwater runoff from the
31			development by vegetated conveyances to the maximum extent
32			practicable;
33	(E)	A maxi	mum of 10 percent of each jurisdiction's portion of the watershed
34			of the critical area as delineated on July 1, 1993 may be
35			ped with new development projects and expansions of existing
36			oment of up to 70 percent built upon surface area (the "10/70
37) in addition to the new development approved in compliance
51		option	, in addition to the new development approved in computative

1		with the appropriate requirements of Sub Item (3)(b)(i)(A) or Sub Item
2		(3)(b)(i)(B) of this Rule. For expansions to existing development, the
3		existing built upon surface area shall not be counted toward the allowed
4		70 percent built upon surface area. A local government having
5		jurisdiction within the watershed may transfer, in whole or in part, its
6		right to the 10/70 option land area to another local government within
7		the watershed upon submittal of a joint resolution and review by the
8		Commission. When the water supply watershed is composed of public
9		lands, such as National Forest land, local governments may count the
10		public land acreage within the watershed outside of the critical area in
11		figuring the acreage allowed under this provision. For local governments
12		that do not choose to use the high density option in that WS-III
13		watershed, each project shall, to the maximum extent practicable,
14		minimize built upon surface area, direct stormwater runoff away from
15		surface waters, and incorporate best management practices, as defined in
16		Rule .0202 of this Section, to minimize water quality impacts. If the local
17		government selects the high density development option within that
18		WS III watershed, then engineered stormwater controls shall be
19		employed for the new development;
20	(F)	If local governments choose the high density development option that
21		requires engineered stormwater controls, then they shall assume ultimate
22		responsibility for operation and maintenance of the required controls as
23		outlined in Rule .0104 of this Subchapter;
24	(G)	A minimum 100 foot vegetative buffer shall be required for all new
25		development activities that exceed the low density requirements as
26		specified in Sub Item (3)(b)(i)(A) and Sub Item (3)(b)(ii)(A) of this
27		Rule, otherwise a minimum 30 foot vegetative buffer for development
28		shall be required along all perennial waters indicated on the most recent
29		versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as
30		determined by local government studies. Nothing in this Rule shall stand
31		as a bar to artificial streambank or shoreline stabilization;
32	(H)	No new development shall be allowed in the buffer; water dependent
33		structures, or other structures such as flag poles, signs, and security
34		lights, which result in only de minimus increases in impervious area and
35		public projects such as road crossings and greenways may be allowed
36		where no practicable alternative exists. These activities shall minimize
37		built upon surface area and avoid channelizing stormwater; (I) No

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1			National Pollutant Discharge Elimination System (NPDES) permits
2			shall be issued for landfills that discharge treated leachate;
3			1 Area Nonpoint Source and Stormwater Pollution Control Criteria:
4		(A)	Low Density Option: new development shall be limited to either no more
5			than one dwelling unit of single family detached residential development
6			per acre (or 40,000 square foot lot excluding roadway right of way), or
7			12 percent built upon area for all other residential and non residential
8			development; stormwater runoff from the development shall be
9			transported by vegetated conveyances to the maximum extent
10			practicable;
11		(B)	High Density Option: if new development exceeds the low density
12			requirements specified in Sub Item (3)(b)(ii)(A) of this Rule, then
13			engineered stormwater controls shall be used to control runoff from the
14			first inch of rainfall; development shall not exceed 30 percent built upon
15			area;
16		(C)	No new permitted sites for land application of residuals or petroleum
17			contaminated soils shall be allowed;
18		(D)	No new landfills shall be allowed;
19	(<u>c)(a)</u>	MBAS (Methyl	ene-Blue Active <mark>Substances): not greater than</mark> <u>Substances) shall not exceed</u>
20		0.5 mg/l to prot	ect the aesthetic qualities of water supplies and to prevent foaming;
21	(<u>d)(b)</u>	Odor producing	substances contained in sewage, industrial wastes, or other wastes: only
22		such amounts, v	whether alone or in combination with other substances or wastes, as shall
23		not cause taste a	and odor difficulties in water supplies that cannot be corrected by treatment,
24			ability of fish, or have a deleterious effect upon any best usage established
25		for waters of thi	
26	(e)<u>(</u>c)		enolic compounds: not greater than compounds shall not exceed 1.0 ug/l to
27		_	upplies from taste and odor problems from chlorinated phenols;
28	(<u>f)(d)</u>	-	not greater than hardness shall not exceed 100 mg/l as calcium carbonate
29	(-) <u>+-</u>	(CaCO ₃ or Ca +	
30	(<u>g)(e)</u>		solids: not greater than solids shall not exceed 500 mg/l;
31	(<u>b)(f)</u>		- deleterious substances:
32	(11)(1)		y standards (maximum permissible concentrations) to protect human health
33			consumption and fish tissue consumption for non-carcinogens in Class
33		e	[non carcinogens:] toxic and other deleterious substances that are non-
35			Il not exceed the following:
35 36			
			um: 1.0 mg/l;
37		(B)(ii) Chlo	ride: 250 mg/l;

1			(C)(iii)	Nickel: 25 ug/l;	
2			(D)(iv)	Nitrate nitrogen: 10.0 mg/l;	
3			(E)(v)	2,4-D: 70 ug/l;	
4			(F)(vi)	2,4,5-TP (Silvex): 10 ug/l; and	
5			(G)(vii)	Sulfates: 250 mg/l;	
6		(g)		quality standards (maximum permissible concentrations) to protect human health	
7				vater consumption and fish tissue consumption for carcinogens in Class WS III	
8			-	areinogens:] toxic and other deleterious substances that are carcinogens shall not	
9			exceed th	e following:	
10			(<u>A)(i)</u>	Aldrin: 0.05 ng/1;	
11			(B)(ii)	Arsenic: 10 ug/l;	
12			(<u>C)(iii)</u>	Benzene: 1.19 ug/1;	
13			(D)(iv)	Carbon tetrachloride: 0.254 ug/l;	
14			$\frac{(E)(v)}{(E)(v)}$ Chlordane: 0.8 ng/1;		
15			(F)(vi) Chlorinated benzenes: 488 ug/l;		
16			$\frac{(G)(vii)}{(G)(vii)}$ DDT: 0.2 ng/1;		
17			(H)(viii) Dieldrin: 0.05 ng/1;		
18			(1)(ix) Dioxin: 0.000005 ng/l;		
19			(J)(x) Heptachlor: 0.08 ng/1;		
20			(K)(xi) Hexachlorobutadiene: 0.44 ug/l;		
21			(L)(xii) Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;		
22			$\frac{(M)(xiii)}{(M)(xiii)}$ Tetrachloroethane (1,1,2,2): 0.17 ug/l;		
23			(<u>N)(xiv)</u>	Tetrachloroethylene: 0.7 ug/l;	
24			(O)(xv)	Trichloroethylene: 2.5 ug/l; and	
25			(P)(xvi)	Vinyl Chloride: 0.025 ug/l.	
26	<u>(4)</u>	Wastev	vater and sto	ormwater point source discharges in a WS-III watershed shall meet the following	
27		<u>require</u>	ments:		
28		<u>(a)</u>	Discharge	es that qualify for a General NPDES Permit pursuant to 15A NCAC 02H .0127	
29			shall be a	llowed in the entire watershed.	
30		<u>(b)</u>	Discharge	es from trout farms that are subject to Individual NPDES Permits shall be allowed	
31			in the enti	ire watershed.	
32		<u>(c)</u>	<u>Stormwat</u>	er discharges that qualify for an Individual NPDES Permit pursuant to 15A	
33			<u>NCAC 02</u>	2H .0126 shall be allowed in the entire watershed.	
34		<u>(d)</u>	<u>New dom</u>	estic wastewater discharges that are subject to Individual NPDES Permits shall	
35			not be all	owed in the Critical Area and are allowed in the remainder of the watershed.	
36		<u>(e)</u>	<u>New indu</u>	strial wastewater discharges that are subject to Individual NPDES Permits except	
37			non-proce	ess industrial discharges shall not be allowed in the entire watershed.	

1		<u>(f)</u>	No discharge of sewage, [industrial] industrial, or other wastes shall be allowed in the
2			entire watershed except for those allowed by Sub-Items [(4)(a)](a) through [(4)(e)](e) of
3			this [Rule] Item or Rule .0104 of this Subchapter; none shall be allowed that have an
4			adverse effect on human health or that are not treated to the satisfaction of the Commission
5			and in accordance with the requirements of the Division. Upon request by the Commission,
6			a [Any] discharger [may be required by the Commission to] shall disclose all chemical
7			constituents present or potentially present in their wastes and chemicals that could be
8			spilled or be present in runoff from their facility that may have an adverse impact on
9			downstream water quality. These facilities may be required to have spill and treatment
10			failure control plans as well as perform special monitoring for toxic substances.
11		<u>(g)</u>	No new landfills shall be allowed in the Critical Area, and no NPDES permits shall be
12			issued for landfills to discharge treated leachate in the remainder of the watershed.
13		<u>(h)</u>	No new permitted sites for land application of residuals or petroleum contaminated soils
14			shall be allowed in the Critical Area.
15	<u>(5)</u>	<u>Nonpo</u>	int source pollution in a WS-III watershed shall meet the following requirements:
16		<u>(a)</u>	None that would have an adverse impact, as that term is defined in 15A NCAC 02H .1002,
17			on waters for use as a water supply or any other designated use.
18		<u>(b)</u>	[Waters of this class] Class WS-III waters shall be protected as water supplies that are
19			located in watersheds that meet average watershed development density levels specified
20			Class WS-III waters in Rule .0624 of this Subchapter.
21			
22	History Note:	Author	ity G.S. 143-214.1; 143-215.3(a)(1);
23		Eff. Se	ptember 9, 1979;
24		Amena	led Eff. January 1, 2015; May 1, 2007; April 1, 2003; January 1, 1996; October 1, 1995;
25		Octobe	er 1, 1989. <u>1989:</u>
26		<u>Reado</u>	pted Eff. September 1, 2019.

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0216

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

For purposes of clarity, please consider rewording lines 5-7 to say something like "All water supply watersheds classified as WS-IV shall meet the standards set forth in Rule .0211 of this Subchapter and the following:" Assuming that this is the intent.

Is (1) really a standard and/or requirement or would it make sense to move that up to the introductory information? It looks to me that Item (1) really explains what this classification means and is applicable to and would be helpful to know at the outset.

In Item (1), when would WS-I classification "not be feasible"? As determined by whom? If it's y'all, how is this to be determined? If not, can you provide some examples?

In (1), lines 13, I don't understand the reference to Class C waters.

Delete (2)(a), (b), and (c) as being repetitive of Items (3), (4), and (5) as they are unnecessary. They each just say follow (3), (4), or (5) and do nothing more.

In (2)(d), what treatment required by the division? Is there a cross-reference available? Is this in the Permit?

In (2)(d), what are the National Drinking Water Regulations? I see that you've incorporated the State Rules, but what are these national standards?

In Item (2)(e), what is meant by "water pollution that preclude the best uses..."? How is this determined?

What is the intent of (2)(f)? Is this just informational in nature? If so, is this the best placement for this? Should this be its own Item?

In (3)(b), did you intend on turning this into a complete sentence or keeping the colon. Please be consistent where you can.

(3)(b) appears to be missing a word, did you intend to add "shall be allowed"?

In (3)(b), what are "taste and odor difficulties"?

In (3)(b), what is considered to be a "deleterious effect"? Is this defined somewhere?

In (3)(f) and (g), please consider deleting "Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption" Why is it necessary to say "maximum permissible concentrations"?

In (4)(d), please end the sentence after "Subchapter" and begin a new sentence with "none."

In (4)(d), is an "adverse effect" the same thing as "adverse impact"? If so, please be consistent in your terminology. If that is the case, please delete "as defined in .1002" in (5)(a) since that's not the first time this term is used.

On line 8, either delete "to the satisfaction of the Commission" or say how this will be determined.

On line 9, what are "the requirements of the Division"?

In (4)(d), when would a facility be required to have control plans? Is this set out in the permit? Is there a cross-reference available? If not, please provide information on how this determination is to be made.

In (4)(e), delete "be required to" and just say "shall meet"

(5)(a) appears to be missing a word. Please review and clarify.

1	15A NCAC 02B	.0216 is	readopted as	s published	in 32:22 N	CR 2411-2493	3 <u>with changes</u> as follows:	
2 3	15A NCAC 02B	0216	FDFSH (NIDEACE	WATED	ομαιίτν	STANDARDS FOR <u>CLASS</u> WS-IV	
3 4	ISA NCAC UZE	0.0210	WATERS		WAILN	QUALITY	STANDARDS FOR <u>CLASS</u> WS-IV	
5	The following w	ater aval			to surface	waters within	water supply watersheds classified as WS-	
6	-	-	•				ule .0211 of this Section shall also apply to	
7	Class WS-IV wa		us application		waters as t	leserided in K	ule .0211 of this Section shall also apply to	
8	(1)		t usage of W	S_IV water	s shall be a	s follows: a so	urce of water supply for drinking, culinary,	
9	(1)		•				more protective WS I, WS II or WS III	
10							ecified for Class C waters; Best Usage of	
10					-	• •	/ shall be as a source of water supply for	
11			-				e users where a more protective WS-I, WS-	
12				-	• • •		best usage specified for Class C waters.	
13	(2)					•	lows: waters of this class are protected as	
15	(2)				-		ed watersheds or protected areas and which	
16			••		•		as specified in Sub Items (3)(b)(i)(A),	
17							lischarges that qualify for a General Permit	
18							es, recycle (closed loop) systems that only	
19		•				-		
20		discharge in response to 10 year storm events, other stormwater discharges, and domestic wastewater discharges shall be allowed in the protected and critical areas; treated industrial						
20				-		-	and critical areas; however, new industrial	
21						-	ired to meet the provisions of 15A NCAC	
22							2B .0203; new industrial connections and	
23 24				/· 、 、 /			reatment program pursuant to 15A NCAC	
24							Usage: The best usage of waters classified	
2 <i>3</i> 26			IV shall be r	_		clated to Dest	Usage of waters classified	
20 27		<u>(a)</u>				uuality naram	eters in a WS-IV watershed shall meet	
28		<u>(a)</u>				(3) of this Ru		
20 29		<u>(b)</u>	-	-			charges in a WS-IV watershed shall meet	
30		<u>(0)</u>			-	(4) of this Ru	•	
31		<u>(c)</u>		-			ed shall meet the requirements as specified	
32		<u>(c)</u>		of this Rule		<u>B-1 v watersh</u>	ed shan meet <mark>the</mark> requirements as speemed	
33		<u>(d)</u>				wing treatmer	nt required by the Division, <u>the waters</u> shall	
33		<u>(4)</u>					centrations considered safe for drinking,	
35							e specified in the national drinking water	
36			•	-	• •	•	verning Public Water Supplies, 15A NCAC	
50			regulations				terming i uone trater supplies, 15A ttere	

1			18C .1500. <u>.1</u>	500, [which are hereby] incorporated by reference including subsequent
2			amendments an	nd editions.
3		<u>(e)</u>	Sources of wat	ter pollution that preclude any of these <u>the best</u> uses <mark>on either a short-term</mark>
4			<mark>or long-term b</mark>	r <mark>asis</mark> shall be considered to be violating <u>deemed to violate</u> a water quality
5			standard.	
6		<u>(f)</u>	The Class WS-	II or WS-III classifications may be used to protect portions of Class WS-IV
7			water supplies.	. For reclassifications of these portions of WS-IV water supplies occurring
8			after the July 1	, 1992 statewide reclassification, the more protective <u>a WS-IV</u> classification
9			<u>that is</u> requeste	ed by local governments shall be considered by the Commission when if all
10			local governme	ents having jurisdiction in the affected area(s) have adopted a resolution and
11			the appropriate	e ordinances to protect the watershed or the Commission acts to protect a
12			watershed whe	en one or more local governments has failed to adopt necessary protection
13			measures; [me	asures.] protective measures as required by this Sub-Item.
14	(3)	Quality	standards appli	cable to Class WS IV Waters shall be as follows: Chemical and physical
15		<u>water qu</u>	ality parameter	s in a WS-IV watershed shall meet the following requirements:
16		(a)	Sewage, indus	trial wastes, non process industrial wastes, or other wastes: none shall be
17			allowed except	for those specified in Item (2) of this Rule and Rule .0104 of this Subchapter
18			and none shall	be allowed that have an adverse effect on human health or that are not treated
19			to the satisfac	tion of the Commission and in accordance with the requirements of the
20			Division. Any	dischargers or industrial users subject to pretreatment standards may be
21			required by th	e Commission to disclose all chemical constituents present or potentially
22			present in their	wastes and chemicals that could be spilled or be present in runoff from their
23			facility which	may have an adverse impact on downstream water supplies. These facilities
24			may be require	d to have spill and treatment failure control plans as well as perform special
25			monitoring for	toxic substances;
26		(b)	Nonpoint Sour	ree and Stormwater Pollution: none shall be allowed that would adversely
27			impact the wat	ers for use as water supply or any other designated use.
28			(i) Nonpo	oint Source and Stormwater Pollution Control Criteria For Entire Watershed
29			or Pre	steeted Area:
30			(A)	Low Density Option: development activities that require a
31				Sedimentation/Erosion Control Plan in accordance with 15A NCAC 04
32				established by the North Carolina Sedimentation Control Commission or
33				approved local government programs as delegated by the Sedimentation
34				Control Commission shall be limited to no more than either: two
35				dwelling units of single family detached development per acre (or 20,000
36				square foot lot excluding roadway right of way),or 24 percent built upon
37				on area for all other residential and non-residential development; or three

1		-	g units per acre, or 36 percent built upon area for projects without
2		eurb and	d gutter street systems in the protected area outside of the critical
3	1	area; ste	ormwater runoff from the development shall be transported by
4		vegetate	ed conveyances to the maximum extent practicable;
5	(B)	High D	ensity Option: if new development activities that require a
6	:	Sedimer	ntation/Erosion Control Plan exceed the low density
7	1	requiren	nents of Sub Item (3)(b)(i)(A) of this Rule, then development
8		shall cor	ntrol the runoff from the first inch of rainfall; new residential and
9	-	non res i	idential development shall not exceed 70 percent built upon area;
10	(C)	Land wi	ithin the critical and protected area shall be deemed compliant
11		with the	e density requirements if the following condition is met: the
12		density	of all existing development at the time of reclassification does
13	1	not exc	eed the density requirement when densities are averaged
14	1	through	out the entire area;
15	(D)	Cluster-	development shall be allowed on a project by project basis as
16		follows:	÷
17		(I)	overall density of the project meets associated density or
18			stormwater control requirements of this Rule;
19		(II)	buffers meet the minimum statewide water supply watershed
20			protection requirements;
21		(III)	built upon areas shall be designed and located to minimize
22			stormwater runoff impact to the receiving waters, minimize
23			concentrated stormwater flow, maximize the use of sheet flow
24			through vegetated areas, and maximize the flow length through
25			vegetated areas;
26		(IV)	areas of concentrated development shall be located in upland
27			areas and away, to the maximum extent practicable, from
28			surface waters and drainageways;
29		(V)	remainder of tract to remain in vegetated or natural state;
30		(VI)	area in the vegetated or natural state may be conveyed to a
31			property owners association, a local government for
32			preservation as a park or greenway, a conservation
33			organization, or placed in a permanent conservation or farmland
34			preservation easement;
35		(VII)	a maintenance agreement for the vegetated or natural area shall
36		(·)	be filed with the Register of Deeds; and
50			se mea mai die regione of Doods, and

1		(VIII) cluster development that meets the applicable low density
2		option requirements shall transport stormwater runoff from the
3		development by vegetated conveyances to the maximum extent
4		practicable;
5	(E)	If local governments choose the high density development option that
6		requires engineered stormwater controls, then they shall assume
7		responsibility for operation and maintenance of the required controls as
8		outlined in Rule .0104 of this Subchapter;
9	(F)	A minimum 100 foot vegetative buffer shall be required for all new
10		development activities that exceed the low density option requirements
11		as specified in Sub Item (3)(b)(i)(A) or Sub Item (3)(b)(ii)(A) of this
12		Rule, otherwise a minimum 30 foot vegetative buffer for development
13		shall be required along all perennial waters indicated on the most recent
14		versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps or as
15		determined by local government studies;
16	(G)	No new development shall be allowed in the buffer; water dependent
17		structures, or other structures, such as flag poles, signs, and security
18		lights, which result in only de minimus increases in impervious area and
19		public projects such as road crossings and greenways may be allowed
20		where no practicable alternative exists. These activities shall minimize
21		built upon surface area and avoid channelizing stormwater;
22	(H)	For local governments that do not use the high density option, a
23		maximum of 10 percent of each jurisdiction's portion of the watershed
24		outside of the critical area as delineated on July 1, 1995 may be
25		developed with new development projects and expansions to existing
26		development of up to 70 percent built upon surface area (the "10/70
27		option") in addition to the new development approved in compliance
28		with the appropriate requirements of Sub Item (3)(b)(i)(A) of this Rule.
29		For expansions to existing development, the existing built upon surface
30		area shall not be counted toward the allowed 70 percent built upon
31		surface area. A local government having jurisdiction within the
32		watershed may transfer, in whole or in part, its right to the 10/70 option
33		land area to another local government within the watershed upon
34		submittal of a joint resolution for review by the Commission. When the
35		designated water supply watershed area is composed of public land, such
36		as National Forest land, local governments may count the public land
37		acreage within the designated watershed area outside of the critical area

1			in figuring the acreage allowed under this provision. Each project shall,
2			to the maximum extent practicable, minimize built upon surface area,
3			direct stormwater runoff away from surface waters and incorporate best
4			management practices, as defined in Rule .0202 of this Section, to
5			minimize water quality impacts;
6		(ii) Critical	I Area Nonpoint Source and Stormwater Pollution Control Criteria:
7		(II) CITICA (A)	Low Density Option: new development activities that require a
8		(71)	Sedimentation/Erosion Control Plan in accordance with 15A NCAC 4
o 9			
			established by the North Carolina Sedimentation Control Commission or
10			approved local government programs as delegated by the Sedimentation
11			Control Commission shall be limited to no more than two dwelling units
12			of single family detached development per acre (or 20,000 square foot
13			lot excluding roadway right of way), or 24 percent built upon area for
14			all other residential and non residential development; stormwater runoff
15			from the development shall be transported by vegetated conveyances to
16			the maximum extent practicable;
17		(B)	High Density Option: if new development density exceeds the low
18			density requirements specified in Sub Item (3)(b)(ii)(A) of this Rule,
19			engineered stormwater controls shall be used to control runoff from the
20			first inch of rainfall; new residential and non residential development
21			shall not exceed 50 percent built upon area;
22		(C)	No new permitted sites for land application of residuals or petroleum
23			contaminated soils shall be allowed;
24		(D)	No new landfills shall be allowed;
25	(c)<u>(a)</u>	MBAS (Methyle	ene-Blue Active <mark>Substances): not greater than</mark> Substances) shall not exceed
26		0.5 mg/l to prote	ect the aesthetic qualities of water supplies and to prevent foaming;
27	(d)(b)	Odor producing	substances contained in sewage, industrial wastes, or other wastes: only
28		such amounts, w	whether alone or in combination with other substances or waste, as will not
29		cause taste and	odor difficulties in water supplies that cannot be corrected by treatment,
30		impair the palata	ability of fish, or have a deleterious effect upon any best usage established
31		for waters of thi	s class;
32	<u>(e)(c)</u>	Chlorinated phe	nolic compounds: not greater than <u>compounds shall not exceed</u> 1.0 ug/l to
33		protect water su	upplies from taste and odor problems due to chlorinated phenols shall be
34		allowed. Specifi	ic phenolic compounds may be given a different limit if it is demonstrated
35		not to cause tast	e and odor problems and not to be detrimental to other best usage;
36	(f)(d)		shall not exceed 100 mg/l as calcium carbonate ($CaCO_3$ or $Ca + Mg$);
37	(<u>g)(e)</u>		solids shall not exceed 500 mg/l;
	$() \rightarrow$		

1		(h)<u>(f)</u>	Toxic and	lother deleterious substances:			
2			(i)Water quality standards (maximum permissible concentrations) to protect human health				
3			through water consumption and fish tissue consumption for non-carcinogens in Class				
4			WS IV waters: [non-carcinogens:] toxic and other deleterious substances that are non-				
5			<u>carcinoge</u>	ns shall not exceed the following:			
6			<mark>(A)(i)</mark>	Barium: 1.0 mg/l;			
7			<mark>(B)(ii)</mark>	Chloride: 250 mg/l;			
8			(C)(iii)	Nickel: 25 ug/l;			
9			(D)(iv)	Nitrate nitrogen: 10.0 mg/l;			
10			<mark>(E)(v)</mark>	2,4-D: 70 ug/l;			
11			<mark>(F)(vi)</mark>	2,4,5-TP (Silvex): 10 ug/l; and			
12			(G)(vii)	Sulfates: 250 mg/l;			
13		<mark>(g)</mark>	<mark>(ii)</mark> Water	quality standards (maximum permissible concentrations) to protect human health			
14			through v	vater consumption and fish tissue consumption for carcinogens in Class WS IV			
15			waters: [e	areinogens:] toxic and other deleterious substances that are carcinogens shall not			
16			exceed th	e following:			
17			<mark>(A)(i)</mark>	Aldrin: 0.05 ng/1;			
18			<mark>(B)(ii)</mark>	Arsenic: 10 ug/l;			
19			(C)(iii)	Benzene: 1.19 ug/1;			
20			(D)(iv)	Carbon tetrachloride: 0.254 ug/l;			
21			<mark>(E)(v)</mark>	Chlordane: 0.8 ng/1;			
22			(F)(vi)	Chlorinated benzenes: 488 ug/l;			
23			(G)(vii)	DDT: 0.2 ng/1;			
24			(H)(viii)	Dieldrin: 0.05 ng/1;			
25			<mark>(I)(ix)</mark>	Dioxin: 0.000005 ng/l;			
26			<mark>(J)(x)</mark>	Heptachlor: 0.08 ng/1;			
27			<mark>(K)(xi)</mark>	Hexachlorobutadiene: 0.44 ug/l;			
28			(L)(xii)	Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;			
29			(M)(xiii)	Tetrachloroethane (1,1,2,2): 0.17 ug/l;			
30			(N)(xiv)	Tetrachloroethylene: 0.7 ug/l;			
31			(O)(xv)	Trichloroethylene: 2.5 ug/l; and			
32			(P)(xvi)	Vinyl Chloride: 0.025 ug/l.			
33	<u>(4)</u>	Wastew	vater and st	ormwater point source discharges in a WS-IV watershed shall meet the following			
34		<u>require</u>	ments:				
35		<u>(a)</u>	Discharge	es that qualify for a General NPDES Permit pursuant to 15A NCAC 02H .0127			
36			<u>shall be a</u>	llowed in the entire watershed.			

1		<u>(b)</u>	Discharges from domestic facilities, industrial facilities and trout farms that are subject to	
2			Individual NPDES Permits shall be allowed in the entire watershed.	
3		<u>(c)</u>	Stormwater discharges that qualify for an Individual NPDES Permit pursuant to 15A	
4			NCAC 02H .0126 shall be allowed in the entire watershed.	
5		<u>(d)</u>	No discharge of sewage, industrial wastes, or other wastes shall be allowed in the entire	
6			watershed except for those allowed by Sub-Items [(4)(a)](a) through [(4)(c)](c) of this	
7			[Rule] Item or Rule .0104 of this Subchapter; none shall be allowed that have an adverse	
8			effect on human health or that are not treated to the satisfaction of the Commission and in	
9			accordance with the requirements of the Division. Upon request by the Commission, [Any]	
10			dischargers or industrial users subject to pretreatment standards [may] shall be required [by	
11			the Commission] to disclose all chemical constituents present or potentially present in their	
12			wastes and chemicals that could be spilled or be present in runoff from their facility which	
13			may have an adverse impact on downstream water supplies. These facilities may be	
14			required to have spill and treatment failure control plans as well as perform special	
15			monitoring for toxic substances.	
16		<u>(e)</u>	New industrial discharges of treated wastewater in the critical area shall be required to meet	
17			<u>the provisions of <mark>[Sub-Items (c)(2)(iv), (v), and (vii) of</mark>] <u>Rule .0224(c)(2)(D), (E), and (G)</u></u>	
18			of this Section and Rule .0203 of this Section.	
19		<u>(f)</u>	New industrial connections and expansions to existing municipal discharges with a	
20			pretreatment program pursuant to 15A NCAC 02H .0904 shall be allowed in the entire	
21			watershed.	
22		<u>(g)</u>	No new landfills shall be allowed in the Critical Area.	
23		<u>(h)</u>	No new permitted sites for land application residuals or petroleum contaminated soils shall	
24			be allowed in the Critical Area.	
25	<u>(5)</u>	Nonpo	int source pollution in a WS-IV watershed shall meet the following requirements:	
26		<u>(a)</u>	None that would have an adverse impact, as that term is defined in 15A NCAC 02H .1002,	
27			on waters for use as a water supply or any other designated use.	
28		<u>(b)</u>	[Waters of this class] Class WS-IV waters shall be protected as water supplies that are	
29			located in watersheds that meet average watershed development density levels specified	
30			for Class WS-IV waters in Rule .0624 of this Subchapter.	
31				
32	History Note:	Author	rity G.S. 143-214.1; 143-215.3(a)(1);	
33		Eff. February 1, 1986;		
34		Amended Eff. January 1, 2015; May 1, 2007; April 1, 2003; June 1, 1996; October 1, 1995; August		
35		1, 1995; June 1, 1994. <u>1994:</u>		
36		<u>Reado</u>	pted September 1, 2019.	
37				

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0218

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

For purposes of clarity, please consider rewording lines 5-7 to say something like "All water supply watersheds classified as WS-V shall meet the standards set forth in Rule .0211 of this Subchapter and the following:" Assuming that this is the intent.

Is (1) really a standard and/or requirement or would it make sense to move that up to the introductory information? It looks to me that Item (1) really explains what this classification means and is applicable to and would be helpful to know at the outset.

Is (1) delete the "or" after "WS-IV waters:" on line 16

In (2)(d), what treatment required by the division? Is there a cross-reference available? Is this in the Permit?

In (2)(d), what are the National Drinking Water Regulations? I see that you've incorporated the State Rules, but what are these national standards?

In (2)(e), how will it be determined whether these management requirements will be applied?

In (2)(f), by "may", do you mean "shall"? If you mean may, what factors will you use in making this determination? I understand that it will only happen upon request of the land use jurisdiction, but how will you decide whether to actually do it?

In (3)(b), did you intend on turning this into a complete sentence or keeping the colon. Please be consistent where you can.

(3)(b) appears to be missing a word, did you intend to add "shall be allowed"?

In (3)(b), what are "taste and odor difficulties"?

In (3)(b), what is considered to be a "deleterious effect"? Is this defined somewhere?

In (3)(c), please begin a new sentence with "Specific phenolic..." Please see .0216(3)(c)

In (3)(f) and (g), please consider deleting "Water quality standards (maximum permissible concentrations) to protect human health through water consumption and fish tissue consumption" Why is it necessary to say "maximum permissible concentrations"?

In (4), since this is not a list as it is in companion rules, please consider deleting "Wastewater and stormwater point discharges in a WS-V water shall meet the following requirements:"

In (4), is an "adverse effect" the same thing as "adverse impact"? If so, please be consistent in your terminology. If that is the case, please delete "as defined in .1002" in (5)since that's not the first time this term is used.

On line 34, either delete "to the satisfaction of the Commission" or say how this will be determined.

On line 35, what are "the requirements of the Division"?

In (4), when would a facility be required to have control plans? Is this set out in the permit? Is there a cross-reference available? If not, please provide information on how this determination is to be made.

In (4), is an "adverse effect" the same thing as "adverse impact"? If so, please be consistent in your terminology. If that is the case, please delete "as defined in .1002" in (5)(a) since that's not the first time this term is used.

End (5) with a period, rather than a semi-colon.
1	15A NCAC 02B .0218 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:								
2									
3	15A NCAC 02B .0218	FRESH	SURFACE	WATER	QUALITY	STANDARDS	FOR	CLASS	WS-V
4		WATER	S						
5	The following water qu	ality standa	rds <u>shall</u> app	ly to surfac	e waters with	nin water supply	waters	heds class	ified as
6	WS-V. Water quality sta	ndards appl	icable to Class	s C waters a	s described in	Rule .0211 of thi	is Sectio	on shall als	o apply
7	to Class WS-V waters.	o Class WS-V waters.							
8	(1) The be	(1) The best usage of WS-V waters shall be as follows: waters that are protected as water supplies that							
9	are up	stream and	draining to C	Class WS-I V	Waters; or v	waters previously	used f	or drinkin;	g water
10	supply	-purposes; <	or waters use	d by indust	ry to supply (their employees,	but not	-municipal	lities or
11	countie	es, with a re	w drinking w	vater supply	source, altho	ugh this type of u	use sha l	l not be re	stricted
12	to WS	-V-classific	ation; and all	l Class C u	ses. The Con	nmission may co	nsider a	a more pre	stective
13	classif	ication for-	the water sup	pply if a re	solution requ	esting a more pi	rotectiv	e classifica	ation is
14	submit	ted from al	l local gover i	nments havi	ng land use j	urisdiction within	n the af	fected wat	tershed;
15	[Best 	<mark>Jsage of W</mark>	aters:] <u>The b</u>	est usage o	<u>f waters class</u>	ified as WS-V sl	hall be	as waters	<u>that are</u>
16	protect	ted as water	supplies whi	ich are gene	rally upstream	n and draining to	Class	<u>WS-IV wa</u>	<u>iters; or</u>
17	waters	previously	used for drin	nking water	supply purpo	ses; or waters us	sed by i	<u>ndustry to</u>	supply
18	<u>their</u> e	mployees,	<u>but not muni</u>	icipalities o	r counties, w	vith a raw drinki	ng wat	er supply	source,
19	althou	<u>gh this type</u>	of use is not	restricted to	WS-V classi	fication; and all C	Class C	uses.	
20	(2) The co	nditions rel	ated to the be	est usage sha	all be as follow	ws: waters of this	class a	re protecte	d water
21	supplie	≥s; <mark>[Conditi</mark>	ons Related to) Best Usag	<mark>e:</mark>] <u>The best u</u>	sage of waters cla	assified	as WS-V	<u>shall be</u>
22	<u>mainta</u>	ined as follo	<mark>ows:</mark>						
23	<u>(a)</u>	Chemical	and physical	l water quali	ity parameters	s in a WS-V wate	<u>r shall r</u>	<u>neet requir</u>	rements
24		as specifi	ed in Item (3)) of this Rul	<u>e.</u>				
25	<u>(b)</u>	<u>Wastewa</u>	ter and storn	mwater poi	nt source di	scharges in a V	WS-V	water shal	<u>ll meet</u>
26		<u>requirem</u>	ents as specif	ied in Item	(4) of this Rul	<u>e.</u>			
27	<u>(c)</u>	<u>Nonpoint</u>	source pollu	ition in a W	S-V water sh	nall meet <mark>the</mark> requ	uiremer	<u>its as spec</u>	ified in
28		<u>Item (5) (</u>	of this Rule.						
29	<u>(d)</u>	the <u>The</u> [The] waters,	following <u>F</u>	<mark>ollowing</mark> trea	tment required by	y the Di	vision, <u>the</u>	waters
30		shall mee	et the Maximu	um Contami	nant Level co	oncentrations con	sidered	safe for di	rinking,
31		culinary,	or food-proc	essing purp	oses that are	specified in the	nation	al drinking	g water
32		regulation	ns and in the I	North Caroli	ina Rules Gov	erning Public Wa	ater Sup	plies, 15A	NCAC
33		18C .15()0; <u>.1500, <mark>wł</mark></u>	<mark>hich are he</mark>	reby] incorpo	orated by referen	ce incl	uding sub	sequent
34		amendme	ents and edition	ons;					
35	<u>(e)</u>	no catego	orical restricti	ions on wat	ershed develo	opment or waster	water di	ischarges s	shall be
36		required,	however, tl	he <u>The</u> Co	ommission or	ts designee r	nay ap	ply mana	gement

1			requirements for the protection of waters downstream of receiving waters (15A NCAC 02B
2			.0203). provided in Rule .0203 of this Section.
3		<u>(f)</u>	The Commission may consider a more protective classification for the water supply if a
4		<u>(1)</u>	resolution requesting a more protective classification is submitted from all local
5			governments having land use jurisdiction within the affected watershed.
6		(α)	Sources of water pollution that preclude any of these the best uses on either a short-term
		<u>(g)</u>	or long-term basis shall be considered to be violating deemed to violate a water quality
7			
8		0 1	standard;
9	(3)	-	standards applicable to Class WS V Waters shall be as follows: <u>Chemical and physical</u>
10		-	uality parameters in a WS-V water shall meet the following requirements:
11		(a)	Sewage, industrial wastes, non process industrial wastes, or other wastes: none shall be
12			allowed that have an adverse effect on human health or that are not treated to the
13			satisfaction of the Commission and in accordance with the requirements of the Division.
14			Any discharges or industrial users subject to pretreatment standards shall be required by
15			the Commission to disclose all chemical constituents present or potentially present in their
16			wastes and chemicals that could be spilled or be present in runoff from their facility which
17			may have an adverse impact on downstream water supplies. These facilities may be
18			required to have spill and treatment failure control plans as well as perform special
19			monitoring for toxic substances;
19 20		(b)(a)	monitoring for toxic substances; MBAS (Methylene-Blue Active <mark>Substances): not greater than</mark> <u>Substances) shall not exceed</u>
		(b)<u>(a)</u>	
20		(b)<u>(a)</u> (c)	MBAS (Methylene-Blue Active Substances): not greater than Substances) shall not exceed
20 21			MBAS (Methylene-Blue Active Substances): not greater than Substances) shall not exceed 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming;
20 21 22			MBAS (Methylene-Blue Active Substances): not greater than Substances) shall not exceed 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming; Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters
20 21 22 23		(c)	MBAS (Methylene-Blue Active Substances): not greater than Substances) shall not exceed 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming; Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as water supply or any other designated use;
20 21 22 23 24		(c)	MBAS (Methylene-Blue Active Substances): not greater than Substances) shall not exceed 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming; Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as water supply or any other designated use; Odor producing substances contained in sewage, industrial wastes, or other wastes: only
20 21 22 23 24 25		(c)	MBAS (Methylene-Blue Active Substances): not greater than Substances) shall not exceed 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming; Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as water supply or any other designated use; Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not
 20 21 22 23 24 25 26 		(c)	MBAS (Methylene-Blue Active Substances): not greater than Substances) shall not exceed 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming; Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as water supply or any other designated use; Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not cause taste and odor difficulties in water supplies that <u>cannot</u> <u>can not</u> be corrected by
20 21 22 23 24 25 26 27		(c)	MBAS (Methylene-Blue Active Substances): not greater than Substances) shall not exceed 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming; Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as water supply or any other designated use; Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not cause taste and odor difficulties in water supplies that <u>cannot</u> can not be corrected by treatment, impair the palatability of fish, or have a deleterious effect upon any best usage
 20 21 22 23 24 25 26 27 28 		(c) (d)(<u>b)</u>	MBAS (Methylene-Blue Active Substances): not greater than Substances) shall not exceed 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming; Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as water supply or any other designated use; Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not cause taste and odor difficulties in water supplies that cannot can not be corrected by treatment, impair the palatability of fish, or have a deleterious effect upon any best usage established for waters of this class;
 20 21 22 23 24 25 26 27 28 29 		(c) (d)(<u>b)</u>	 MBAS (Methylene-Blue Active Substances): not greater than Substances) shall not exceed 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming; Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as water supply or any other designated use; Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not cause taste and odor difficulties in water supplies that cannot can not be corrected by treatment, impair the palatability of fish, or have a deleterious effect upon any best usage established for waters of this class; Chlorinated phenolic compounds: not greater than compounds shall not exceed 1.0 ug/l to
20 21 22 23 24 25 26 27 28 29 30		(c) (d)(<u>b)</u>	 MBAS (Methylene-Blue Active Substances): not greater than Substances) shall not exceed 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming; Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as water supply or any other designated use; Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not cause taste and odor difficulties in water supplies that cannot can not be corrected by treatment, impair the palatability of fish, or have a deleterious effect upon any best usage established for waters of this class; Chlorinated phenolic compounds: not greater than compounds shall not exceed 1.0 ug/l to protect water supplies from taste and odor problems due to chlorinated phenols; specific
20 21 22 23 24 25 26 27 28 29 30 31		(c) (d)(b) (c) (c)	MBAS (Methylene-Blue Active Substances): not greater than Substances) shall not exceed 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming; Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as water supply or any other designated use; Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not cause taste and odor difficulties in water supplies that cannot can not be corrected by treatment, impair the palatability of fish, or have a deleterious effect upon any best usage established for waters of this class; Chlorinated phenolic compounds: not greater than compounds shall not exceed 1.0 ug/l to protect water supplies from taste and odor problems due to chlorinated phenols; specific phenolic compounds may be given a different limit if it is demonstrated not to cause taste and odor problems and not to be detrimental to other best usage;
 20 21 22 23 24 25 26 27 28 29 30 31 32 		(c) (d)(<u>b)</u>	 MBAS (Methylene-Blue Active Substances): not greater than Substances) shall not exceed 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming; Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as water supply or any other designated use; Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not cause taste and odor difficulties in water supplies that cannot can not be corrected by treatment, impair the palatability of fish, or have a deleterious effect upon any best usage established for waters of this class; Chlorinated phenolic compounds: not greater than compounds shall not exceed 1.0 ug/l to protect water supplies from taste and odor problems due to chlorinated phenols; specific phenolic compounds may be given a different limit if it is demonstrated not to cause taste and odor problems and not to be detrimental to other best usage; Total hardness: not greater than hardness shall not exceed 100 mg/l as calcium carbonate
 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 		(c) (<u>d)(b)</u> (c) (c) (f) (<u>d)</u>	 MBAS (Methylene-Blue Active Substances): not greater than Substances) shall not exceed 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming; Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as water supply or any other designated use; Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not cause taste and odor difficulties in water supplies that cannot can not be corrected by treatment, impair the palatability of fish, or have a deleterious effect upon any best usage established for waters of this class; Chlorinated phenolic compounds: not greater than compounds shall not exceed 1.0 ug/l to protect water supplies from taste and odor problems due to chlorinated phenols; specific phenolic compounds may be given a different limit if it is demonstrated not to cause taste and odor problems and not to be detrimental to other best usage; Total hardness: not greater than hardness shall not exceed 100 mg/l as calcium carbonate (CaCO₃ or Ca + Mg);
 20 21 22 23 24 25 26 27 28 29 30 31 32 33 		(c) (d)(b) (c) (c)	 MBAS (Methylene-Blue Active Substances): not greater than Substances) shall not exceed 0.5 mg/l to protect the aesthetic qualities of water supplies and to prevent foaming; Nonpoint Source and Stormwater Pollution: none that would adversely impact the waters for use as water supply or any other designated use; Odor producing substances contained in sewage, industrial wastes, or other wastes: only such amounts, whether alone or in combination with other substances or waste, as will not cause taste and odor difficulties in water supplies that cannot can not be corrected by treatment, impair the palatability of fish, or have a deleterious effect upon any best usage established for waters of this class; Chlorinated phenolic compounds: not greater than compounds shall not exceed 1.0 ug/l to protect water supplies from taste and odor problems due to chlorinated phenols; specific phenolic compounds may be given a different limit if it is demonstrated not to cause taste and odor problems and not to be detrimental to other best usage; Total hardness: not greater than hardness shall not exceed 100 mg/l as calcium carbonate

1		(i) Water o	quality standards (maximum permissible concentrations) to protect human health
2			vater consumption and fish tissue consumption for non-carcinogens in Class
3		•	aters: [non carcinogens:] toxic and other deleterious substances that are non-
4		<u>carcinoge</u>	ns shall not exceed the following:
5		(<u>A)(i)</u>	Barium: 1.0 mg/l;
6		(B)(ii)	Chloride: 250 mg/l;
7		(C)(iii)	Nickel: 25 ug/l;
8		(D)(iv)	Nitrate nitrogen: 10.0 mg/l;
9		(E)(v)	2,4-D: 70 ug/l;
10		(F)(vi)	2,4,5-TP (Silvex): 10 ug/l; and
11		(<u>G)(vii)</u>	Sulfates: 250 mg/l;
12		(g) (ii)	quality standards (maximum permissible concentrations) to protect human health
13		through v	vater consumption and fish tissue consumption for carcinogens in Class WS V
14		waters: [e	areinogens:] toxic and other deleterious substances that are carcinogens shall not
15		exceed th	e following:
16		(<u>A)(i)</u>	Aldrin: 0.05 ng/1;
17		(<mark>B)(ii)</mark>	Arsenic: 10 ug/l;
18		(C)(iii)	Benzene: 1.19 ug/1;
19		(D)(iv)	Carbon tetrachloride: 0.254 ug/l;
20		(E)(v)	Chlordane: 0.8 ng/1;
21		<mark>(F)(vi)</mark>	Chlorinated benzenes: 488 ug/l;
22		(G)(vii)	DDT: 0.2 ng/1;
23		(H)(viii)	Dieldrin: 0.05 ng/1;
24		(<u>1)(ix)</u>	Dioxin: 0.000005 ng/l;
25		(J)(x)	Heptachlor: 0.08 ng/1;
26		<mark>(K)(xi)</mark>	Hexachlorobutadiene: 0.44 ug/l;
27		(L)(xii)	Polynuclear aromatic hydrocarbons (total of all PAHs): 2.8 ng/l;
28		(M)(xiii)	Tetrachloroethane (1,1,2,2): 0.17 ug/l;
29		(<u>N)(xiv)</u>	Tetrachloroethylene: 0.7 ug/l;
30		(O)(xv)	Trichloroethylene: 2.5 ug/l; and
31		(<u>Р)(xvi)</u>	Vinyl Chloride: 0.025 ug/l.
32	<u>(4)</u>	Wastewater and st	tormwater point source discharges in a WS-V water shall meet the following
33		requirements: No c	lischarge of sewage, industrial wastes, or other wastes shall be allowed that have
34		an adverse effect o	on human health or that are not treated to the satisfaction of the Commission and
35		in accordance wit	h the requirements of the Division. Upon request by the Commission, [Any]
36		dischargers or ind	ustrial users subject to pretreatment standards [may] shall be required by the
37		Commission to dis	close all chemical constituents present or potentially present in their wastes and

1		chemicals that could be spilled or be present in runoff from their facility which may have an adverse
2		impact on downstream water quality. These facilities may be required to have spill and treatment
3		failure control plans as well as perform special monitoring for toxic substances.
4	<u>(5)</u>	Nonpoint Source pollution in a WS-V water shall [meet the following requirements: None that
5		would adversely] not have an adverse impact, as that term is defined in 15A NCAC 02H .1002, on
6		waters for use as water supply or any other designated use;
7		
8	History Note:	Authority G.S. 143-214.1; 143-215.3(a)(1);
9		Eff. October 1, 1989;
10		Amended Eff. January 1, 2015; May 1, 2007; April 1, 2003; October 1, 1995. <u>1995;</u>
11		<u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0219

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

For purposes of clarity, please consider rewording lines 4-6 to say something like "All surface waters classified as Class B waters that are used for primary contact recreation shall meet the standards set forth in Rule .0211 of this Subchapter and the following:" Assuming that this is the intent.

Is (1) really a standard and/or requirement or would it make sense to move that up to the introductory information? It looks to me that Item (1) really explains what this classification means and is applicable to and would be helpful to know at the outset.

In Item (2), line 20, change "which" to "that" in "which preclude"

In (3)(a), delete or define "effectively"

In (3)(a), begin new sentences with "In determining" and "Discharges in the immediate"

In (3)(a), delete or define "immediate"

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15A NCAC 02B .0219 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

3 15A NCAC 02B .0219 FRESH SURFACE WATER QUALITY STANDARDS FOR CLASS B WATERS

4 The following water quality standards <u>shall</u> apply to surface waters that are for primary <u>contact</u> recreation <u>including</u> 5 frequent or organized swimming as defined in Rule .0202 of this Section, and are classified as Class B waters. Water 6 quality standards applicable to Class C waters as described in Rule .0211 of this Section also apply to Class B waters.

- 7
 (1)
 Best Usage of Waters. Primary recreation and any other best usage specified by the "C"

 8
 classification; Best Usage of Waters. [Best Usage of Waters: Primary]The best usage of Class B

 9
 waters shall be primary contact recreation as defined in Rule .0202 of this Section and any other

 10
 best usage specified [by the "C" classification.] for Class C waters.
- 11 (2)Conditions Related to Best Usage. Class B waters shall meet the standards of water quality for 12 outdoor bathing places as specified in Item (3) of this Rule and shall be of sufficient size and depth 13 for primary contact recreation. In assigning the B classification to waters intended for primary 14 contact recreation, the Commission [will take into consideration] shall consider the relative 15 proximity of sources of water pollution and the potential hazards involved in locating swimming areas close to sources of water pollution and [will] shall not assign this classification to waters in 16 which such water pollution could result in a hazard to public health. The waters shall meet accepted 17 standards of water quality for outdoor bathing places as specified in Item (3) of this Rule and shall 18 19 be of sufficient size and depth for primary [contact] recreation purposes. Sources of water pollution 20 which preclude any of these uses on either a short-term or long-term basis shall be considered to be 21 violating deemed to violate a water quality standard; standard.
- 22 (3) Quality standards applicable to Class B waters:
 - (a) Sewage, industrial wastes, or other wastes: none which shall be allowed that are not effectively treated to the satisfaction of the Commission; in determining the degree of treatment required for such waste when discharged into waters to be used for bathing, the Commission shall consider the quality and quantity of the sewage and wastes involved and the proximity of such discharges to waters in this class; discharges in the immediate vicinity of bathing areas may shall not be allowed if the Director determines that the waste can not cannot be reliably treated to ensure the protection of primary contact recreation;
- 30(b)Organisms of coliform group: feeal Fecal coliforms shall not to exceed geometric mean of31200/100 ml (MF count) based on at least five or more consecutive samples examined32during any 30-day period and not to exceed 400/100 ml in more than 20 percent of the33samples examined during such period.
- 34(4)Wastewater discharges to waters classified as B shall meet the reliability requirements specified in3515A NCAC 02H .0124. Discharges to waters where a primary contact recreational use is determined36by the Director to be attainable shall be required to meet water quality standards and reliability37requirements to protect this use concurrently with reclassification efforts.

1		
2	History Note:	Authority G.S. 143-214.1; 143-215.3(a)(1);
3		Eff. January 1, 1990;
4		Amended Eff. October 1, 1995. <u>1995:</u>
5		<u>Readopted Eff September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0220

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

What is the overall intent of this Rule? I read it to say that these are the water quality standards applicable to tidal salt waters that as classified as Class SC. Assuming that's correct, why are lines 5-7 necessary? At best, they appear unnecessary, but more concerning to me is that they are confusing. With regard to the reference to .0208, is the intent here to say something like "In addition to the requirements set forth in Rule .0208 of this Subchapter, all tidal salt waters classified as Class SC waters shall meet the following standards:"? If so, please say that.

Is (1) really a standard and/or requirement or would it make sense to move that up to the introductory information? It looks to me that Item (1) really explains what this classification means and is applicable to and would be helpful to know at the outset.

In (3), line 27, please add "if" before "the Director"

In Item (5), what is a "poorly flushed tidally influenced stream" Is "poorly flushed" a term of art? If not, please delete or define "poorly"

In Item (7), what is meant by "shall not make the water unsafe or unsuitable"? How is this determined?

In (9)(c), please see my comments in .0211 regarding (11)(b).

Please consider formatting (17) into a list as you've done elsewhere in this Rule.

Please change the period in (15)(b) and (c) after "alpha emitters" and "beta emitters", respectively into colons in order to be consistent with (15)(a).

Please consider breaking (15)(c) out into a further list. There is a lot of information in there.

Amber May Commission Counsel Date submitted to agency: July 30, 2019 In Item (16), please consider deleting "be required to" in "shall be required to employ" so that it just reads "shall employ"

In (19), please consider deleting "as defined by Rule .0202"

In (19), are lines 11-13 ("BMPs shall be in full... of such BMPs") necessary?

If this language is necessary, delete or define "full" in "full compliance" and "proper" in "proper design"

Also, what are "specifications"?

15A NCAC 02B .0220 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

3 15A NCAC 02B .0220 TIDAL SALT WATER QUALITY STANDARDS FOR CLASS SC WATERS

General. The <u>following</u> water quality standards for all tidal salt waters shall <u>be the basic standards applicable</u> <u>apply</u> to
 Class SC waters. <u>Water quality standards for temperature and numerical water quality standards for the protection of</u>
 human health applicable to all surface waters are in Rule .0208 of this Section. Additional and more stringent standards

<u>human health applicable to all surface waters are in Rule .0208 of this Section.</u> Additional and more stringent standards
 applicable to other specific tidal salt water classifications are specified in Rules .0221 and .0222 of this Section. Action

applicable to other specific tidal salt water classifications are specified in Rules .0221 and .0222 of this Section. Action
 Levels, for purposes of National Pollutant Discharge Elimination System (NPDES) permitting, are specified in Item

- 9 (20) of this Rule.
- 10 Best Usage of Waters: any usage except primary recreation or shellfishing for market purposes; (1) 11 usages include aquatic life propagation and maintenance of biological integrity (including fishing, fish and functioning PNAs), wildlife, and secondary recreation; [Best Usage of Waters:] 12 13 The best usage of waters classified as SC shall be aquatic life propagation, survival, and maintenance 14 of biological integrity (including fishing, [fish, and Primary Nursery Areas (PNAs)); wildlife; 15 secondary contact recreation as defined in Rule .0202 in this Section; and any usage except primary contact recreation or shellfishing for market purposes. All saltwaters shall be classified to protect 16 17 these uses at a minimum.
- 18 (2)Conditions Related to Best Usage: the waters The best usage of waters classified as SC shall be 19 suitable for aquatic life propagation and maintenance of biological integrity, wildlife, and secondary recreation. [all best uses] maintained as specified in this Rule. Any source of water pollution that 20 21 precludes any of these uses, including their functioning as PNAs, uses on either a short-term or a 22 long-term basis [uses] shall be considered to be violating deemed to violate a water quality standard; 23 (3) Chlorophyll a (corrected): not greater than shall not exceed 40 ug/l [(based upon monthly averaging where such data are available during the growing season which is generally April 1 — October 31) 24 25 in sounds, estuaries, and other waters subject to growths of macroscopic or microscopic vegetation. 26 The Commission or its designee may prohibit or limit any discharge of waste into surface waters if.
- in the opinion of the Director, the the Director determines that the surface waters experience or the
 discharge would result in growths of microscopic or macroscopic vegetation such that the standards
 established pursuant to this Rule would be violated or the intended best usage of the waters would
 be impaired;
- 31 (4) Cyanide: <u>shall not exceed</u> 1 ug/l;
- 32 (5) Dissolved oxygen: <u>shall</u> not <u>be</u> less than 5.0 mg/l, except that swamp waters, poorly flushed tidally 33 influenced streams or embayments, or estuarine bottom waters may have lower values if caused by 34 natural conditions;
- 35 (6) Enterococcus, including Enterococcus faecalis, Enterococcus faecium, Enterococcus avium and
 36 Enterococcus gallinarium: including Enterococcus faecalis, Enterococcus faecium, Enterococcus
 37 avium and Enterococcus gallinarium: shall not to exceed a geometric mean of 35 enterococci per

1		100 ml	based u	pon a minimum of five <u>or more</u> samples within any consecutive 30 days. For <u>the</u>	
2		purposes of beach monitoring and notification, "Coastal Recreational Waters Monitoring,			
		Evaluation and Notification" regulations (15A NCAC 18A .3400), available free of charge at:			
3					
4		http://www.ncoah.com/, are hereby incorporated by reference including any subsequent			
5	<i>(</i> _)			nendments and editions;	
6	(7)			settleable solids, or sludge deposits: shall be allowed only in such amounts	
7				ewage, industrial wastes, or other wastes, <u>wastes</u> as shall not make the waters unsafe	
8				r aquatic life and wildlife, or impair the waters for any designated uses;	
9	(8)	Gases, t	otal diss	olved: not greater than shall not exceed 110 percent of saturation;	
10	(9)	Metals:			
11		(a)	With th	ne exception of mercury and selenium, tidal salt water quality standards for metals	
12			shall b	e based upon measurement of the dissolved fraction of the metals. Mercury and	
13			seleniu	m shall be based upon measurement of the total recoverable metal;	
14		(b)	Compl	iance with acute instream metals standards shall only be evaluated using an average	
15			of two	or more samples collected within one hour. Compliance with chronic instream	
16			metals	standards shall only be evaluated using averages of a minimum of four samples	
17			taken o	n consecutive days, or as a 96-hour average;	
18		(c)	Metals	criteria shall be used for proactive environmental management. An instream	
19			exceed	ence of the numeric criterion for metals shall not be considered to have caused an	
20			adverse	e impact to the aquatic community without biological confirmation and a	
21			compar	rison of all available monitoring data and applicable water quality standards. This	
22			weight	of evidence evaluation shall take into account data quality and the overall	
23			confide	ence in how representative the sampling is of conditions in the waterbody segment	
24			before	an assessment of aquatic life use attainment, or non attainment, is made by the	
25			Divisie	n. Recognizing the synergistic and antagonistic complexities of other water quality	
26				es on the actual toxicity of metals, with the exception of mercury and selenium,	
27			biologi	cal monitoring shall be used to validate, by direct measurement, whether or not the	
28			aquatic	life use is supported.	
29		(<u>d)(c)</u>	-	and chronic tidal salt water quality metals standards are as follows: shall not exceed	
30			the foll		
31			(i)	Arsenic, acute: WER· 69 ug/l;	
32			(ii)	Arsenic, chronic: WER· 36 ug/l;	
33			(iii)	Cadmium, acute: WER· 40 ug/l;	
34			(iv)	Cadmium, chronic: WER· 8.8 ug/l;	
35			(v)	Chromium VI, acute: WER· 1100 ug/l;	
36			(v) (vi)	Chromium VI, acute. WER 1100 ug/l;	
30 37			(vi) (vii)	Copper, acute: WER 4.8 ug/l;	
51			(11)	Copper, acute. where τ .o ug/1,	

1		(viii)	Copper, chronic: WER· 3.1 ug/l;
2		(ix)	Lead, acute: WER· 210 ug/l;
3		(x)	Lead, chronic: WER· 8.1 ug/l;
4		(xi)	Mercury, total recoverable, chronic: 0.025 ug/l;
5		(xii)	Nickel, acute: WER· 74 ug/l;
6		(xiii)	Nickel, chronic: WER· 8.2 ug/l;
7		(xiv)	Selenium, total recoverable, chronic: 71 ug/l;
8		(xv)	Silver, acute: WER · 1.9 ug/l;
9		(xvi)	Silver, chronic: WER· 0.1 ug/l;
10		(xvii)	Zinc, acute: WER· 90 ug/l; and
11		(xviii)	Zinc, chronic: WER· 81 ug/l;
12		With th	e exception of mercury and selenium, acute and chronic tidal saltwater quality
13		aquatic	life standards for metals listed above in this Sub-Item shall apply to the dissolved
14		form of	the metal and apply as a function of the pollutant's water effect ratio (WER). A
15		WER e	expresses the difference between the measures of the toxicity of a substance in
16		laborato	bry waters and the toxicity in site water. The WER shall be assigned a value equal
17		to one u	unless any person demonstrates to the <mark>Division's <u>Division</u> satisfaction</mark> in a permit
18		proceed	ling that another value is developed in accordance with the "Water Quality
19		Standar	ds Handbook: Second Edition" published by the US Environmental Protection
20		Agency	(EPA-823-B-12-002), free of charge, at
21		http://w	ater.epa.gov/scitech/swguidance/standards/handbook/, hereby incorporated by
22		reference	ce including any subsequent amendments. amendments and editions. Alternative
23		site-spe	cific standards may also be developed when any person submits values that
24		demons	trate to the Commissions' Commission satisfaction that they were derived in
25		accorda	nce with the "Water Quality Standards Handbook: Second Edition, Recalculation
26		Procedu	are or the Resident Species Procedure", hereby incorporated by reference including
27		subsequ	amendments <u>and editions</u> at
28		http://w	rater.epa.gov/scitech/swguidance/standards/handbook/. This material is available
29		free of o	charge;
30	(10)	Oils, deleterious	substances, colored, or colored or other wastes: wastes shall be allowed only in
31		such amounts as	shall not render the waters injurious to public health, secondary recreation, aquatic
32		life, and wildlife	or adversely affect the palatability of fish, aesthetic quality, or impair the waters
33		for any designat	ed uses. For the purpose of implementing this Rule, oils, deleterious substances,
34		colored, or <u>colo</u>	red or other wastes shall include substances that cause a film or sheen upon or
35		discoloration of	the surface of the water or adjoining shorelines pursuant to shorelines, as described
36		<u>in</u> _40_CFR_110	.3; <u>40 CFR [110.3]</u> 110.3. [which are] incorporated by reference including any

1		subsequent amendments and editions. This material is available free of charge on the internet at				
2		http://www.gpo.gov/fdsys/.				
3	(11)	Pesticides: Pesticides shall not exceed the following:				
4		(a) Aldrin: 0.003 ug/l;				
5		(b) Chlordane: 0.004 ug/l;				
6		(c) DDT: 0.001 ug/l;				
7		(d) Demeton: 0.1 ug/l;				
8		(e) Dieldrin: 0.002 ug/l;				
9		(f) Endosulfan: 0.009 ug/l;				
10		(g) Endrin: 0.002 ug/l;				
11		(h) Guthion: 0.01 ug/l;				
12		(i) Heptachlor: 0.004 ug/l;				
13		(j) Lindane: 0.004 ug/l;				
14		(k) Methoxychlor: 0.03 ug/l;				
15		(l) Mirex: 0.001 ug/l;				
16		(m) Parathion: 0.178 ug/l; and				
17		(n) Toxaphene: 0.0002 ug/l;				
18	(12)	pH: shall be normal for the waters in the area, which range between 6.8 and 8.5, except that swamp				
19		waters may have a pH as low as 4.3 if it is the result of natural conditions;				
20	(13)	Phenolic compounds: <u>shall be allowed</u> only <u>in</u> such levels as shall not result in fish-flesh tainting or				
21		impairment of other best usage;				
22	(14)	Polychlorinated biphenyls: (total of all PCBs and congeners identified) shall not exceed 0.001 ug/l;				
23	(15)	Radioactive substances:				
24		(a) Combined radium-226 and radium-228: The average annual activity level (based on at least				
25		one sample collected per quarter) for combined radium-226, and radium-228 shall not				
26		exceed five picoCuries per liter;				
27		(b) Alpha Emitters. The average annual gross alpha particle activity (including radium-226,				
28		but excluding radon and uranium) shall not exceed 15 picoCuries per liter;				
29		(c) Beta Emitters. The average annual activity level (based on at least one sample collected				
30		per quarter) for strontium-90 shall not exceed eight picoCuries per liter; liter, nor shall the				
31		average annual gross beta particle activity (excluding potassium-40 and other naturally				
32		occurring radionuclides exceed 50 picoCuries per liter; liter, nor shall the average annual				
33		activity level for tritium exceed 20,000 picoCuries per liter;				
34	(16)	Salinity: changes in salinity due to hydrological modifications shall not result in removal of the				
35		functions of a PNA. Projects that are determined by the Director to result in modifications of salinity				
36		such that functions of a PNA are impaired shall be required to employ water management practices				
37		to mitigate salinity impacts;				

1	(17)	Temperature: shall not be increased above the natural water temperature by more than 0.8 degrees
2		C (1.44 degrees F) during the months of June, July, and August August. nor shall not be increased
3		by more than 2.2 degrees C (3.96 degrees F) during other months months, and shall in no-cases to
4		case exceed 32 degrees C (89.6 degrees F) due to the discharge of heated liquids;
5	(18)	Trialkyltin compounds: shall not exceed 0.007 ug/l expressed as tributyltin;
6	(19)	Turbidity: the turbidity in the receiving water shall not exceed 25 Nephelometric Turbidity Units
7		(NTU); if turbidity exceeds this level due to natural background conditions, the existing turbidity
8		level shall not be increased. Compliance with this turbidity standard can be shall be deemed met
9		when land management activities employ Best Management Practices (BMPs) [as (BMPs), defined
10		by Rule .0202 of this Section] Section, recommended by the Designated Nonpoint Source Agency
11		(as <u>Agency, as</u> defined by Rule .0202 of this Section). <u>Section.</u> BMPs shall be in full compliance
12		with all specifications governing the proper design, installation, operation, and maintenance of such
13		BMPs; BMPs.
14	(20)	Action Levels for Toxic Substances Applicable to NPDES Permits:
15		(a) Copper, dissolved, chronic: 3.1 ug/l;
16		(b) Silver, dissolved, chronic: 0.1 ug/l;
17		(c) Zinc, dissolved, chronic: 81 ug/l
18		If the action levels for any of the substances listed in this Item (which are generally not
19		bioaccumulative and have variable toxicity to aquatic life because of chemical form, solubility,
20		stream characteristics, or associated waste characteristics) shall be determined by the waste load
21		allocation to be exceeded in a receiving water by a discharge under the 7Q10 flow criterion for toxic
22		substances, the discharger shall monitor the chemical or biological effects of the discharge; efforts
23		shall be made by all dischargers to reduce or eliminate these substances from their effluents. Those
24		substances for which action levels are listed in this Item shall be limited as appropriate in the NPDES
25		permit if sufficient information (to be determined for metals by measurements of that portion of the
26		dissolved instream concentration of the action level parameter attributable to a specific NPDES
27		permitted discharge) exists to indicate that any of those substances may be a causative factor
28		resulting in toxicity of the effluent.
29		
30	History Note:	Authority G.S. 143-214.1; 143-215.3(a)(1);
31		<i>Eff. October 1, 1995;</i>
32		Amended Eff. January 1, 2015; May 1, 2007; August 1, 2000. <u>2000;</u>
33		<u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0221

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

For purposes of clarity, please consider rewording lines 4-6 to say something like "All tidal salt waters classified as SA shall meet the standards set forth in Rules .0220 and .0222 of this Subchapter and the following:" Assuming that this is the intent.

In Item (2), change "will be guided by" to "shall consider"

In Item (2), where can the "standards adopted by the Commission for Public Health"? Please provide information regarding these Rules.

In (3)(c), delete or define "effectively"

In (3)(c), what are the "requirements of the Division"? Are these set forth in the permit?

In (3)(d), what is meant by "most probably" and "most unfavorable"? How is this determined?

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15A NCAC 02B .0221 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

3 15A NCAC 02B .0221 TIDAL SALT WATER QUALITY STANDARDS FOR CLASS SA WATERS

The following water quality standards <u>shall</u> apply to surface waters that are used for shellfishing for market purposes
and are classified SA. Water quality standards applicable to Class SC and SB waters as described in Rule .0220 and
Rule .0222 of this <u>Section Section, respectively, also apply to Class SA waters.</u>

- 7 (1) Best Usage of Waters: <u>The best usage of waters classified as SA shall be</u> shellfishing for market
 8 purposes and any other usage specified by the "SB" or "SC" classification;
- 9 Conditions Related to Best Usage: The best usage of waters classified as SA shall be maintained as (2)10 specified in this Rule. In determining the safety or suitability of Class SA waters to be used for 11 shellfishing for market purposes, the Commission will be guided by the existing water quality of the 12 area in relation to the standards to protect shellfishing uses, the potential contamination of the area 13 from both point and nonpoint sources of pollution, and the presence of harvestable quantities of 14 shellfish or the potential for the area to have harvestable quantities through management efforts of 15 the Division of Marine Fisheries, waters Waters shall meet the current sanitary and bacteriological 16 standards as adopted by the Commission for Public Health and shall be suitable for shellfish culture. 17 Any source of water pollution which that precludes any of these uses, including their functioning as 18 PNAs, [Primary Nursery Areas] on either a short-term or a long-term basis shall be considered to 19 be violating deemed to violate a water quality standard. Waters [will] shall not be classified SA 20 without the written concurrence of the Division of Marine Fisheries.
- (3) Quality Standards applicable The following water quality standards shall apply to Class SA Waters:
 (a) Floating solids, settleable solids, or sludge deposits: none deposits attributable to sewage,
 industrial wastes wastes, or other wastes; wastes shall not be present;
 - (b) Sewage: none; Sewage shall not be allowed;
- 25(c)Industrial wastes, wastesor other wastes: nonewastesshall notbe allowed that26are noteffectively treatedto the satisfaction of the Commissionin accordance with the27requirements of the Division of Environmental Health; Division; and
- (d) Organisms of coliform group: the fecal coliform group shall not to exceed a median MF of
 14/100 ml and not more than 10 percent of the samples shall exceed an MF count of 43/100
 ml in those areas most probably exposed to fecal contamination during the most
 unfavorable hydrographic and pollution conditions.

33	History Note:	Authority G.S. 143-214.1; 143-215.3(a)(1);
34		Eff. October 1, 1995;

- 35 Amended Eff. May 1, 2007. <u>2007;</u>
- 36 Readopted Eff. September 1, 2019.

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0222

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

I note that the title of this Rule says "Tidal salt waters", but line 4 references "surface waters." Should line 4 be "tidal salt waters"? I have used that in my suggestion.

For purposes of clarity, please consider rewording lines 4-6 to say something like "All tidal salt waters classified as Class SB waters that are used for primary contact recreation shall meet the standards set forth in Rule .0220 of this Subchapter and the following:" Assuming that this is the intent.

Is (1) really a standard and/or requirement or would it make sense to move that up to the introductory information? It looks to me that Item (1) really explains what this classification means and is applicable to and would be helpful to know at the outset.

In (3)(b), delete or define "effectively"

In (3)(b), please begin new sentences with "In determining..." and "Discharges in the immediate"

In (3)(b), change "which" to "that" on line 28 in "which are to be used for bathing"

In (3)(b), delete or define "immediate"

In (3)(c), did you intend to delete the colon after "gallinarium"?

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15A NCAC 02B .0222 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

3 15A NCAC 02B .0222 TIDAL SALT WATER QUALITY STANDARDS FOR CLASS SB WATERS

The following water quality standards <u>shall</u> apply to surface waters that are used for primary <u>contact</u> recreation including frequent or <u>as defined in Rule .0202 of this Section</u> organized swimming, and are classified SB. Water quality standards applicable to Class SC waters are described in Rule .0220 of this Section <u>shall</u> also apply to SB waters.

- 8 (1) Best Usage of waters: primary recreation and any other usage specified by the "SC" classification; 9 [Best Usage of Waters:] The best usage of waters classified as SB shall be primary contact 10 [recreation] recreation, as defined in Rule .0202 of this [Section] Section, and any other usage 11 specified by the "SC" classification;
- Conditions Related to Best Usage: The best usage of waters classified as SB shall be maintained as 12 (2) 13 specified in this Rule. In assigning the SB classification to waters intended for primary contact recreation, the Commission [will take into consideration] shall consider the relative proximity of 14 15 sources of water pollution and the potential hazards involved in locating swimming areas close to sources of water [pollution] pollution, and [will] shall not assign this classification to waters in 16 17 which such water pollution could result in a hazard to public health. the The waters shall meet 18 accepted sanitary standards of water quality for outdoor bathing places as specified in Item (3) of 19 this Rule and will shall be of sufficient size and depth for primary contact recreation purposes. Any 20 source of water pollution which that precludes any of these uses, including their functioning as 21 PNAs, [Primary Nursery Areas] on either a short-term or a long-term basis basis, shall be considered 22 to be violating deemed to violate a water quality standard; standard.
- 23 (3) Quality Standards applicable The following water quality standards shall apply to Class SB waters:
 - (a) Floating solids, settleable solids, or sludge deposits: none deposits attributable to sewage, industrial wastes wastes, or other wastes; wastes shall not be allowed;
- 26 (b) Sewage, industrial wastes, or other wastes: none shall be allowed that are not effectively 27 treated to the satisfaction of the Commission; in determining the degree of treatment 28 required for such waters discharged into waters which are to be used for bathing, the 29 Commission shall take into consideration consider the quantity and quality of the sewage 30 and other wastes involved and the proximity of such discharges to the waters in this class; 31 discharges in the immediate vicinity of bathing areas may shall not be allowed if the 32 Director determines that the waste can not cannot be treated to ensure the protection of 33 primary contact recreation;
- 34 (c) Enterococcus, including Enterococcus faecalis, Enterococcus faecium, Enterococcus
 35 avium and Enterococcus gallinarium: <u>shall</u> not to exceed a geometric mean of 35
 36 enterococci per 100 ml based upon a minimum of five or more samples within any
 37 consecutive 30 days. In accordance with <u>Federal Clean Water Act</u>, 33 U.S.C. 1313

1		(Federal Water Pollution Control Act) for the purposes of beach monitoring and				
2		notification, "Coastal Recreation Waters Monitoring, Evaluation and Notification"				
3		regulations (15A NCAC 18A .3400) are hereby incorporated by reference including any				
4		subsequent amendments. amendments and editions.				
5	<u>(4)</u>	Wastewater discharges to waters classified as SB shall meet the reliability requirements specified in				
6		15A NCAC 02H .0124. Discharges to waters where a primary contact recreational use is determined				
7		by the Director to be attainable shall be required to meet water quality standards and reliability				
8		requirements to protect this use concurrently with reclassification efforts.				
9						
10	History Note:	Authority G.S. 143-214.1; 143-215.3(a)(1);				
11		Eff. October 1, 1995;				
12		Amended Eff. May 1, 2007. <u>2007:</u>				
13		<u>Readopted Eff. September 1, 2019.</u>				

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0223

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Capitalize "state" on line 4.

In (b), delete "the Commission deems"

In (c), change "the Commission determines to be contributing" to "contribute"

In (e), what are "nutrient strategies"? Given that you have said "nutrient strategies.... shall be developed by the Commission", I want to make sure that these strategies do not meet the definition of a Rule.

15A NCAC 02B .0223 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

2 3 15A NCA

15A NCAC 02B .0223 <u>WATER QUALITY STANDARDS FOR NUTRIENT SENSITIVE WATERS</u>

- 4 (a) In addition to existing classifications, the Commission may classify any surface waters of the state as nutrient
- 5 sensitive waters <u>Nutrient Sensitive Waters</u> (NSW) upon a finding that such waters are experiencing or are subject to
- 6 excessive growths of microscopic or macroscopic vegetation. Excessive growths are growths which that the
- 7 Commission determines impair the use <u>best usage</u> of the water for its best usage as determined by the classification
- 8 applied to such waters.
- 9 (b) NSW may include any or all waters within a particular river basin as the Commission deems necessary to
- 10 **effectively** control excessive growths of microscopic or macroscopic vegetation.
- 11 (c) For the purpose of this Rule, the term "nutrients" shall mean phosphorous or nitrogen or any other chemical
- 12 parameter or combination of parameters which that the commission <u>Commission</u> determines to be contributing to
- 13 excessive growths of microscopic or macroscopic vegetation.
- 14 (d) Those waters of the [state] State that are additionally classified as nutrient sensitive NSW shall be identified in

15 the appropriate schedule of classifications as referenced in Section .0300 of this Subchapter. river basin classification

- 16 schedule. The schedules are available online at http://portal.ncdenr.org/web/wq/ps/csu/classifications.
- 17 (e) Nutrient strategies applicable to NSW shall be developed by the Commission to limit nutrients to control the
- 18 magnitude, duration, or frequencies of excessive growths of microscopic or macroscopic vegetation so that the existing
- 19 and designated uses of the waterbody are protected or restored.
- 20
- 21 History Note: Authority G.S. 143-214.1; 143-215.8B;
- 22 *Eff. October 1, 1995;*
- 23 Amended Eff. August 1, 2000. 2000;
- 24 <u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0224

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

In (a), I don't read these to be "procedures", please consider deleting "The following procedures set forth in"

In (c)(2), delete "be required to" so that it just reads "shall comply"

In (c)(2)(A), delete either "Effluent limitations shall be as follows" or "Oxygen Consuming Wastes" Here, do you mean something like "Effluent limitations for oxygen consuming wastes shall be as follows:"?

In (c)(2)(A), I think that "shall not" in "shall not cause the DO" should be "does not cause..."

In (c)(2)(A), delete or define "readily" in "readily available" and "generally" in "generally applicable"

In (c)(2)(B), add a semi-colon after "PNAs"

In (c)(2)(C), what are "alternative methods"? Can you provide some examples?

In (c)(2)(C), how is it determined whether something is "economically feasible"?

In (c)(2)(D), either provide what is meant by "equivalent failsafe treatment designs" and say how it will be determined whether something is "equivalent" or delete this language all together and change "including" on line 5 to "such as"

In (c)(2)(F), delete or define "appropriate." How will this be determined?

In (c)(2)(G), where can this information be found and at what cost?

Is (c)(3) necessary given (c)(2)?

In (c)(3), delete "be required to" so that it reads "shall comply"

In (c)(3), line 31, change "which" to "that"

In (e), please consider deleting "Listing of Waters Classified as HQW with Specific Actions." as you've not used this kind of introductory language elsewhere in this Rule.

In (e), please also consider deleting "TO protect exceptional water quality," on line 4 and "because of the local government implementation of WS-III stormwater management requirements." This language appears to be unnecessary.

15A NCAC 02B	.0224 is readopted a	published in 32:22 NCR 2411-	-2493 with changes as follows:

2

3 15A NCAC 02B .0224 <u>WATER QUALITY STANDARDS FOR</u> HIGH QUALITY WATERS

4 (a) High Quality Waters (HQW) are a subset of waters <u>"waters</u> with quality higher than the <u>standards</u>" standards and
 5 are as described by 15A NCAC 2B .0101(e)(5) as defined in Rule .0202(59) of this Section. The following procedures

- 6 set forth in this [rule] Rule shall be implemented in order to implement meet the requirements of Rule .0201(d) of this
 7 Section.
- 8 (b) [All water supply watersheds which are classified as WS I or WS II, and all waters classified as Class SA waters
- 9 are HQW. The Commission may classify, if case by case reclassification proceedings are conducted, any surface
- 10 waters of the state as High Quality Waters (HQW) upon finding that such waters are:] High Quality Waters (HQW)
- 11 shall include:
- 12 <u>(1)</u> water supply watersheds that are classified as Class WS-I or WS-II;
- 13 (2) waters classified as Class SA; and
- 14
 (3) surface waters of the State that the Commission classifies as HQW upon finding that such waters

 15
 are:
- 16
 [(1)](A) rated excellent based on biological and physical/chemical characteristics through

 17
 monitoring or special [studies; or]
- 18 [(2)](B) primary nursery areas (PNA) and other functional nursery areas designated by the Marine
 19 Fisheries Commission or the Wildlife Resources Commission.
- 20 (1)(c) New or expanded wastewater discharges in High Quality Waters shall comply with the following:
- 21
 (a)(1)
 Discharges from new single family residences shall be prohibited. Those existing Existing

 22
 subsurface systems for single family residences which that
 fail and must discharge shall install a

 23
 septic tank, dual or recirculating sand filters, disinfection disinfection, and step aeration.
- 24 (b)(2) All new NPDES National Pollutant Discharge Elimination System (NPDES) wastewater discharges
 25 (except single family residences) discharges, except those for single family residences, shall be
 26 required to provide the treatment described below: comply with the following:
- 27 (i)(A) Oxygen Consuming Wastes: Effluent limitations shall be as follows: $\frac{BOD_5=5 \text{ mg/l}}{1000 \text{ mg/l}}$ 28 $\frac{NH_3 - N = 2 \text{ mg/l and } DO = 6 \text{ mg/l}}{BOD_5 \text{ shall not exceed 5 mg/l}, NH_3 - N \text{ shall not exceed}}$ 2 mg/l, and DO shall not be less than 6 mg/l. More stringent limitations shall be set, if 29 30 necessary, to ensure that the cumulative pollutant discharge of oxygen-consuming wastes 31 shall not cause the DO of the receiving water to drop more than 0.5 mg/l below background 32 levels, and in no case below the standard. Where background information is not readily 33 available, evaluations shall assume a percent saturation determined by staff to be generally 34 applicable to that hydroenvironment.
- 35
 (ii)(B)
 Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to not

 36
 exceed
 effluent concentrations of 10 mg/l for trout waters and HQW-classified PNAs

 37
 PNA's, and to 20 mg/l for all other High Quality Waters.

1		(iii)(C)	Disinfection: Alternative methods to chlorination shall be required for discharges to trout
2			streams, except that single family residences may use chlorination if other options are not
3			economically feasible. Domestic discharges are prohibited to SA waters. to SA waters shall
4			be prohibited.
5		(iv)(D)	Emergency Requirements: Failsafe treatment designs shall be employed, including
6			stand-by power capability for entire treatment works, dual train design for all treatment
7			components, or equivalent failsafe treatment designs.
8		(v)(<u>E)</u>	Volume: The total volume of treated wastewater for all discharges combined shall not
9			exceed 50 percent of the total instream flow under 7Q10 conditions.
10		(<u>vi)(F)</u>	Nutrients: Where nutrient overenrichment is projected to be a concern, appropriate effluent
11			limitations shall be set for phosphorus or nitrogen, or both.
12		(<u>vii)(G)</u>	Toxic substances: In cases where complex wastes (those containing or potentially
13			containing toxicants) may be present in a discharge, a safety factor shall be applied to any
14			chemical or whole effluent toxicity allocation. The limit for a specific chemical constituent
15			shall be allocated at one-half of the normal standard at design conditions. Whole effluent
16			toxicity shall be allocated to protect for chronic toxicity at an effluent concentration equal
17			to twice that which is acceptable under design conditions. In all instances there may be no
18			acute toxicity in an effluent concentration of 90 percent. Ammonia toxicity shall be
19			evaluated according to EPA guidelines promulgated in "Ambient Water Quality Criteria
20			for Ammonia - 1984"; EPA document number 440/5-85-001; NITS number PB85-227114;
21			July 29, 1985 (50 FR 30784) or "Ambient Water Quality Criteria for Ammonia
22			(Saltwater) - 1989"; EPA document number 440/5-88-004; NTIS number PB89-169825.
23			This material related to ammonia toxicity is hereby incorporated by reference including
24			any subsequent amendments and editions and is available for inspection at the Department
25			of Environment and Natural Resources Library, 512 North Salisbury Street, Raleigh, North
26			Carolina. editions. Copies may be obtained from the National Technical Information
27			Service, 5285 Port Royal Road, Springfield, Virginia 22161 at a cost of forty seven dollars
28			(\$47.00).
29	(c)(3)	All expa	anded NPDES wastewater discharges in High Quality Waters shall be required to provide
30		<mark>the trea</mark> t	t <mark>ment described in</mark> Sub Item (1)(b) <u>comply with</u> <u>Subparagraph</u> [(c)(2)] (2) of this <mark>Rule,</mark>
31		Paragra	<u>ph.</u> except for those existing discharges which expand with no increase in permitted pollutant
32		loading.	
33	(2)(d) Developn	nent activi	ities which that require an Erosion and Sedimentation Control Plan in accordance with rules
34	established by t	he NC S	edimentation Control Commission or local erosion and sedimentation control program
35	approved in acco	rdance w	ith 15A NCAC 4B .0218, and which drain to and are within one mile of High Quality Waters

36 (HQW) shall be required to follow comply with the stormwater management rules as specified in 15A NCAC 2H

1	.1000. <u>02H</u> .1019	O (coastal county waters) or .1021 (non-coastal county waters). Stormwater management requirements
2	specific to HQW	are described in 15A NCAC 2H .1006.
3	(<u>3)(e)</u> Listing of	f Waters Classified HQW with Specific Actions <mark>Waters classified as HQW with specific actions to</mark>
4	To protect except	otional water quality are listed as follows: quality. Thorpe Reservoir [Little Tennessee River Basin,
5	Index No. <mark>2-79-</mark>	23 (1)] 2-79-23-(1)], including all of its tributaries tributaries, shall be managed with respect to
6	wastewater disch	narges <mark>through</mark> Item (1) as required by Paragraph (c) of this Rule. Item (2) Paragraph (d) of this Rule
7	shall not <mark>be appl</mark>	ied in association with this HQW apply to Thorpe Reservoir and its tributaries because of the local
8	government imp	lementation of WS-III stormwater management requirements.
9	If an applicant of	bjects to the requirements to protect high quality waters and believes degradation is necessary to
10	accommodate in	portant social and economic development, the applicant may contest these requirements according
11	to the provisions	of G.S. 143-215.1(e) and 150B-23.
12		
13	History Note:	Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);
14		Eff. October 1, 1995;
15		Amended Eff. August 1, 1998; April 1, 1996. <u>1996:</u>
16		Readonted Eff. Sentember 1, 2019.

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0225

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

In (a) and (a)(4), delete or define "unique" and "special" Are these terms of art?

In (a)(1), delete or define "special"

In (a)(2), what is considered to be "exceptional"? I see that the use off this word is defined in (b) as used in (a)(1), but how about here?

In (a)(3), what is considered to be "excellent"? Is this a term of art or otherwise defined?

In (b)(1), remove the parenthesis surrounding "or commercially important aquatic species"

In (b)(1), delete or define "outstanding"

In (b)(2), delete or define "unusually"

In (b)(3), delete "already"

In (b)(3), delete or define "special"

In (b)(4), delete or define "important"

In (b)(5) delete or define "special"

In (c)(1), delete or define "appropriate" in "appropriate local erosion"

On lines 8-9, did you intend to delete "that are"? If so, please strike this language.

Lines 16-17, please consider deleting "These actions may include anything within the powers of the Commission." If you choose to keep this language, please provide some additional information, such as a cross-reference to say that these "powers" are.

On line 17, change "which" to "that" in "which have been"

On line 18, delete "appropriate"

In (d)(2), (3), (5), (10), (11), and (13) by Paragraph (c), do you mean Subparagraph (c)(1)? I note that you've used (c)(1) in (c)(3) and (4), so perhaps this was intentional.

In (d)(4)(b)(iii), please choose either "higher" or "more stringent." I think that "higher" is more clear, but you've used "more stringent" in (d)(4)(b)(ii).

In (d)(4)(C)(i), (d)(9)(B)(i), and (d)(13)(A) delete either "Effluent limitations shall be as follows" or "Oxygen Consuming Wastes" Here, do you mean something like "Effluent limitations for oxygen consuming wastes shall be as follows:"?

In (d)(4)(C)(iii) and (d)(9)(B)(iii), either provide what is meant by "equivalent failsafe treatment designs" and say how it will be determined whether something is "equivalent" or delete this language all together and change "including" on line 5 to "such as"

In (d)(12)(B), what is meant by "maximum extent practicable"? Who holds this discretion? If it's you all, please either delete this language or say how it will be applied and determined.

In (d)(12)(F), is "unique hydrology" a term of art? If not, delete or define "unique"

15A NCAC 02B .0225 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

2		
3	15A NCAC 02H	3.0225 <u>WATER QUALITY STANDARDS FOR</u> OUTSTANDING RESOURCE WATERS
4	(a) General. In	addition to the existing classifications, the The Commission may shall classify unique and special
5	surface waters o	f the <mark>state</mark> <u>State</u> as outstanding resource waters (ORW) <u>if:</u> upon finding that
6	(1)	such waters are of exceptional state State or national recreational or ecological significance [which]
7		that require special protection to maintain existing [uses] uses:
8	(2)	and that the waters have exceptional water quality while meeting the following conditions: quality;
9	(<u>1)(3)</u>	that the water quality is rated as excellent based on physical, chemical or biological information;
10		and
11	<mark>(2)(4)</mark>	the characteristics which that make these waters unique and special may not be protected by the
12		assigned narrative and numerical water quality standards.
13	(b) Outstanding	g Resource Values. [Best Usage of Waters:] In order to be classified as ORW, a For purposes of this
14	<u>Rule, a</u> water bo	ody shall be deemed to be of exceptional State or national recreational or ecological significance if it
15	<u>exhibits</u> must ex	khibit one or more of the following values or <u>ORW</u> uses to demonstrate it is of exceptional state or
16	national recreati	onal or ecological significance: uses:
17	(1)	there are outstanding fish (or commercially important aquatic species) habitat and fisheries;
18	(2)	there is an unusually high level of water-based recreation or the potential for such recreation;
19	(3)	the waters have already received some special designation such as a North Carolina or National
20		Wild and Scenic <mark>River,</mark> Native or Special Native Trout Waters <u>River</u> or <mark>a</mark> National Wildlife Refuge,
21		which do not provide any water quality protection;
22	(4)	the waters represent an important component of a state or national park or forest; or
23	(5)	the waters are of special ecological or scientific significance significance, such as habitat for rare or
24		endangered species or as areas for research and education.
25	(c) Quality Star	ndards for ORW.
26	(1)	Freshwater: Water quality conditions shall be maintained to protect the outstanding resource values
27		of waters classified ORW. Management strategies to protect resource values shall be developed on
28		a site specific site-specific basis during the proceedings to classify waters as ORW. ORW in
29		accordance with Rule .0101 of the Subchapter. No new discharges or expansions of existing
30		discharges shall be permitted, and stormwater controls for all new development activities requiring
31		an Erosion and Sedimentation Control Plan in accordance with rules established by the NC
32		Sedimentation Control Commission or an appropriate local erosion and sedimentation control
33		program shall be required to follow comply with the stormwater provisions as specified set forth in
34		15A NCAC 02H
35		for <u>freshwater</u> ORW areas are described set forth in 15A NCAC 02H <mark>.1007.</mark> .1019 and .1021.
36	(2)	Saltwater: Water quality conditions shall be maintained to protect the outstanding resource values
37		of waters classified ORW. Management strategies to protect resource values shall be developed on

1	a site-specific basis during the proceedings to classify waters as ORW. ORW in accordance with
2	Rule .0101 of this Subchapter. New development shall comply with the stormwater provisions as
3	specified set forth in 15A NCAC 02H
4	management requirements for saltwater ORWs ORW areas are described set forth in 15A NCAC
5	02H
6	increased buffer zones, to be determined on a case by case basis. No dredge or fill activities shall
7	be allowed if those activities would result in a reduction of the beds of submerged "submerged
8	aquatic vegetation <u>habitat"</u> or a reduction of shellfish <u>"shellfish</u> producing habitat <mark>[habitat"]</mark> as <mark>[that</mark>
9	are] <u>habitat,"</u> defined in 15A NCAC 03I .0101(b)(20)(A) and (B), .0101, [hereby] and incorporated
10	by reference including subsequent amendments and editions, except for maintenance dredging, such
11	as that required to maintain access to existing channels and facilities located within the designated
12	areas areas, or maintenance dredging for activities such as agriculture. <mark>A</mark> The Commission shall
13	hold a public hearing is mandatory for any proposed permits before granting a permit to discharge
14	to waters classified as ORW.
15	Additional Additional, site-specific actions to protect resource values shall be considered on a site specific basis during
16	the proceedings to classify waters as ORW and shall be specified in Paragraph (e)(d) of this Rule. These actions may
17	include anything within the powers of the Commission. The Commission shall also consider local actions which have
18	been taken to protect a water body in determining the appropriate state protection options, additional, site-specific
19	actions. Descriptions of boundaries of waters classified as ORW are included in Paragraph (e) of this Rule and in the
20	Schedule of Classifications (15A NCAC 02B .0302 through 02B .0317) as specified for the appropriate river basin
21	and shall also be described on maps maintained by the Division of Water Quality.
22	(d) Petition Process. Any person may petition the Commission to classify a surface water of the state as an ORW.
23	The petition shall identify the exceptional resource value to be protected, address how the water body meets the general
24	criteria in Paragraph (a) of this Rule, and the suggested actions to protect the resource values. The Commission may
25	request additional supporting information from the petitioner. The Commission or its designee shall initiate public
26	proceedings to classify waters as ORW or shall inform the petitioner that the waters do not meet the criteria for ORW
27	with an explanation of the basis for this decision. The petition shall be sent to:
28	
29	Director
30	DENR/Division of Water Quality
31	1617 Mail Service Center
32	Raleigh, North Carolina 27699-
33	The envelope containing the petition shall clearly bear the notation: RULE MAKING PETITION FOR ORW
34	CLASSIFICATION.
35	(e)(d) Listing of Waters Classified ORW with Specific Actions. Waters The following waters are classified as ORW
36	with specific actions to protect exceptional resource values are listed as follows: values:

1	(1)	Roosevelt Natural Area [White Oak River Basin, Index Nos. 20-36-9.5-(1) and 20-36-9.5-(2)]
2		20-36-9.5-(2)], including all fresh and saline waters within the property boundaries of the natural
3		area area: shall have only new New development which complies with the low density option in the
4		stormwater rules as specified in 15A NCAC 2H .1005(2)(a) on a site within 575 feet of and naturally
5		draining to the Roosevelt Natural Area (if the development site naturally drains to the Roosevelt
6		Natural Area); shall comply with the low density option in the stormwater rules set forth in 15A
7		NCAC 02H .1019.
8	(2)	Chattooga River ORW Area (Little Tennessee River Basin and Savannah River Drainage Area): the
9		following undesignated waterbodies that are tributary to ORW designated segments shall comply
10		with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this
11		Section. However, expansions of existing discharges to the section state of the section of the s
12		allowed if there is no increase in pollutant loading:
13		(A) North and South Fowler Creeks; Creeks and associated tributaries;
14		(B) Green and Norton Mill Creeks; Creeks and associated tributaries;
15		(C) Cane Creek; Creek and associated tributaries;
16		(D) Ammons Branch; Branch and associated tributaries; and
17		(E) Glade Creek; and Creek and associated tributaries.
18		(F) Associated tributaries;
19	(3)	Henry Fork ORW Area (Catawba River Basin): the following undesignated waterbodies that are
20		tributary to ORW designated segments shall comply with Paragraph (c) of this Rule in order to
21		protect the designated waters as per Rule .0203 of this Section:
22		(A) Ivy Creek; Creek and associated tributaries; and
23		(B) Rock Creek; and Creek and associated tributaries.
24		(C) Associated tributaries;
25	(4)	South Fork New and New Rivers ORW Area [New River Basin (Index Nos. 10-1-33.5 and 10)]: the
26		following management strategies, in addition to the discharge requirements specified set forth in
27		Subparagraph (c)(1) of this Rule, shall be applied to protect apply to the designated ORW areas:
28		(A) Stormwater controls described in Subparagraph (c)(1) of this Rule shall apply to land
29		within one mile of and that drains to the designated ORW areas;
30		(B) New or expanded <u>National Pollutant Discharge Elimination System</u> <u>NPDES</u> (<u>NPDES</u>)
31		permitted wastewater discharges located upstream of the designated ORW (for the North
32		Fork New River ORW are area, see Subparagraph (14) of this Paragraph) shall be permitted
33		such that the following water quality standards are maintained in the ORW segment:
34		(i) the total volume of treated wastewater for all upstream discharges combined shall
35		not exceed 50 percent of the total instream flow in the designated ORW under
36		7Q10 conditions, which are defined in Rule .0206(a)(1) of this Section;

1		(ii)	a safety factor shall be applied to any chemical allocation such that the effluent
2			limitation for a specific chemical constituent shall be the more stringent of either
3			the limitation allocated under design conditions (pursuant to 15A NCAC 02B
4			.0206) pursuant to Rule .0206 of this Section for the normal standard at the point
5			of discharge, or the limitation allocated under design conditions for one-half the
6			normal standard at the upstream border of the ORW segment;
7		(iii)	a safety factor shall be applied to any discharge of complex wastewater (those
8			containing or potentially containing toxicants) to protect for chronic toxicity in
9			the ORW segment by setting the whole effluent toxicity limitation at the higher
10			(more stringent) percentage effluent determined under design conditions
11			(pursuant to 15A NCAC 02B .0206) pursuant to Rule .0206 of this Section for
12			either the instream effluent concentration at the point of discharge or twice the
13			effluent concentration calculated as if the discharge were at the upstream border
14			of the ORW segment;
15		(C) New	or expanded NPDES permitted wastewater discharges located upstream of the
16		design	ated ORW (for the North Fork New River ORW area; area, see Subparagraph (14)
17		of this	Paragraph) shall comply with the following:
18		(i)	Oxygen Consuming Wastes: Effluent limitations shall be as follows: BOD = 5
19			mg/1, and NH3 N = 2 mg/1; BOD shall not exceed 5 mg/l and NH3-N shall not
20			exceed 2 mg/l;
20 21		(ii)	exceed 2 mg/l; Total Suspended Solids: Discharges of total suspended solids (TSS) shall be
		(ii)	
21		(ii)	Total Suspended Solids: Discharges of total suspended solids (TSS) shall be
21 22		(ii) (iii)	Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for
21 22 23			Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters;
21 22 23 24			Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters; Emergency Requirements: Failsafe treatment designs shall be employed,
21 22 23 24 25			Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters; Emergency Requirements: Failsafe treatment designs shall be employed, including stand-by power capability for entire treatment works, dual train design
21 22 23 24 25 26		(iii)	Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters; Emergency Requirements: Failsafe treatment designs shall be employed, including stand-by power capability for entire treatment works, dual train design for all treatment components, or equivalent failsafe treatment designs;
21 22 23 24 25 26 27	(5)	(iii) (iv)	Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters; Emergency Requirements: Failsafe treatment designs shall be employed, including stand-by power capability for entire treatment works, dual train design for all treatment components, or equivalent failsafe treatment designs; Nutrients: Where If nutrient overenrichment is projected to be a concern, effluent
21 22 23 24 25 26 27 28	(5)	(iii) (iv) Old Field Cree	Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters; Emergency Requirements: Failsafe treatment designs shall be employed, including stand-by power capability for entire treatment works, dual train design for all treatment components, or equivalent failsafe treatment designs; Nutrients: Where If nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus or phosphorus, nitrogen, or both;
21 22 23 24 25 26 27 28 29	(5)	(iii) (iv) Old Field Cree source to Call	Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters; Emergency Requirements: Failsafe treatment designs shall be employed, including stand-by power capability for entire treatment works, dual train design for all treatment components, or equivalent failsafe treatment designs; Nutrients: Where If nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus or phosphorus, nitrogen, or both; k (New River Basin): the undesignated portion of Old Field Creek (from from its
21 22 23 24 25 26 27 28 29 30	(5)	(iii) (iv) Old Field Cree source to Call designated wat	Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters; Emergency Requirements: Failsafe treatment designs shall be employed, including stand-by power capability for entire treatment works, dual train design for all treatment components, or equivalent failsafe treatment designs; Nutrients: Where If nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus or phosphorus, nitrogen, or both; k (New River Basin): the undesignated portion of Old Field Creek (from from its Creek) Creek shall comply with Paragraph (c) of this Rule in order to protect the
21 22 23 24 25 26 27 28 29 30 31		(iii) (iv) Old Field Cree source to Call designated wat In the followin	 Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters; Emergency Requirements: Failsafe treatment designs shall be employed, including stand-by power capability for entire treatment works, dual train design for all treatment components, or equivalent failsafe treatment designs; Nutrients: Where If nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus or phosphorus, nitrogen, or both; k (New River Basin): the undesignated portion of Old Field Creek (from from its Creek) Creek shall comply with Paragraph (c) of this Rule in order to protect the ers as per Rule .0203 of this Section;
21 22 23 24 25 26 27 28 29 30 31 32		(iii) (iv) Old Field Cree source to Call designated wat In the followin expanded marin	Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters; Emergency Requirements: Failsafe treatment designs shall be employed, including stand-by power capability for entire treatment works, dual train design for all treatment components, or equivalent failsafe treatment designs; Nutrients: Where If nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus or phosphorus, nitrogen, or both; k (New River Basin): the undesignated portion of Old Field Creek (from from its Creek) Creek shall comply with Paragraph (c) of this Rule in order to protect the ers as per Rule .0203 of this Section; ng designated waterbodies, no additional restrictions shall be placed on new or
21 22 23 24 25 26 27 28 29 30 31 32 33		(iii) (iv) Old Field Cree source to Call designated wat In the followin expanded marin shall be non-de	Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters; Emergency Requirements: Failsafe treatment designs shall be employed, including stand-by power capability for entire treatment works, dual train design for all treatment components, or equivalent failsafe treatment designs; Nutrients: Where If nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus or phosphorus, nitrogen, or both; k (New River Basin): the undesignated portion of Old Field Creek (from from its Creek) Creek shall comply with Paragraph (c) of this Rule in order to protect the ers as per Rule .0203 of this Section; ng designated waterbodies, no additional restrictions shall be placed on new or nas. The only new or expanded NPDES permitted discharges that shall be allowed
21 22 23 24 25 26 27 28 29 30 31 32 33 34		(iii) (iv) Old Field Cree source to Call designated wat In the followin expanded mari shall be non-de River Basin) Ba	Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters; Emergency Requirements: Failsafe treatment designs shall be employed, including stand-by power capability for entire treatment works, dual train design for all treatment components, or equivalent failsafe treatment designs; Nutrients: Where If nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus or phosphorus, nitrogen, or both; k (New River Basin): the undesignated portion of Old Field Creek (from from its Creek) Creek shall comply with Paragraph (c) of this Rule in order to protect the ers as per Rule .0203 of this Section; ng designated waterbodies, no additional restrictions shall be placed on new or nas. The only new or expanded NPDES permitted discharges that shall be allowed pomestic, non-process industrial discharges. The Alligator River Area (Pasquotank

1		Stump	y Creek, Swann Creek (Swann Creek Lake), Whipping Creek (Whipping Creek Lake),
2		-	vine Bay, Rattlesnake Bay, The Straits, The Frying Pan, Coopers Creek, Babbitt Bay, Goose
3		-	Milltail Creek, Boat Bay, Sandy Ridge Gut (Sawyer Lake) and Second Creek, but excluding
4			racoastal Waterway (Pungo River-Alligator River Canal) and all other tributary streams and
5		canals	
6	(7)	In the	following designated waterbodies, the only type of new or expanded marina that shall be
7		allowe	ed shall be those marinas located in upland basin areas, or those with less fewer than 10 slips,
8			aving no boats over 21 24 feet in length and no boats with heads. The only new or expanded
9		NPDE	S permitted discharges that shall be allowed shall be non-domestic, non-process industrial
10		discha	rges:
11		(A)	The the Northeast Swanquarter Bay Area including all waters northeast of a line from a
12			point at Lat. 35E 23N 51O and Long. 76E 21N 02O thence southeast along the Swanquarter
13			National Wildlife Refuge hunting closure boundary (as defined by the 1935 Presidential
14			Proclamation) Proclamation and depicted on the U.S. Fish and Wildlife Service
15			Swanquarter National Wildlife Refuge map at
16			https://www.fws.gov/southeast/pdf/map/swanquarter-national-wildlife-refuge.pdf.
17			incorporated by reference) to Drum Point. Point:
18		(B)	The the Neuse-Southeast Pamlico Sound Area (Southeast Pamlico Sound Section of the
10			Southeast Demline Core and Deals Sound Area), (Nause Diver Desir) including all waters
19			Southeast Pamlico, Core and Back Sound Area); (Neuse River Basin) including all waters
19 20			within an area defined by a line extending from the southern shore of Ocracoke Inlet
20			within an area defined by a line extending from the southern shore of Ocracoke Inlet
20 21		(C)	within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to
20 21 22		(C)	within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point . <u>Point</u> .
20 21 22 23		(C)	within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point . <u>Point</u> . The the Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White
20 21 22 23 24		(C)	within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point. Point: The the Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin), including all waters of Core Sound and its tributaries, but excluding
 20 21 22 23 24 25 		(C) (D)	 within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point. Point: The the Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin), including all waters of Core Sound and its tributaries, but excluding Nelson Bay, Little Port Branch and Atlantic Harbor at its mouth, and those tributaries of
20 21 22 23 24 25 26			 within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point. Point: The the Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin), including all waters of Core Sound and its tributaries, but excluding Nelson Bay, Little Port Branch and Atlantic Harbor at its mouth, and those tributaries of Jarrett Bay that are closed to shellfishing. shellfishing:
20 21 22 23 24 25 26 27			 within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point. Point; The the Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin), including all waters of Core Sound and its tributaries, but excluding Nelson Bay, Little Port Branch and Atlantic Harbor at its mouth, and those tributaries of Jarrett Bay that are closed to shellfishing. shellfishing: The the Western Bogue Sound Section of the Western Bogue Sound and Bear Island Area
20 21 22 23 24 25 26 27 28			 within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point. Point; The the Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin), including all waters of Core Sound and its tributaries, but excluding Nelson Bay, Little Port Branch and Atlantic Harbor at its mouth, and those tributaries of Jarrett Bay that are closed to shellfishing. shellfishing; The the Western Bogue Sound Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin), including all waters within an area defined by a line from
 20 21 22 23 24 25 26 27 28 29 			 within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point: Point: The the Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin), including all waters of Core Sound and its tributaries, but excluding Nelson Bay, Little Port Branch and Atlantic Harbor at its mouth, and those tributaries of Jarrett Bay that are closed to shellfishing, shellfishing; The the Western Bogue Sound Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin), including all waters within an area defined by a line from Bogue Inlet to the mainland at SR 1117 to a line across Bogue Sound from the southwest
 20 21 22 23 24 25 26 27 28 29 30 			 within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point. Point: The the Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin), including all waters of Core Sound and its tributaries, but excluding Nelson Bay, Little Port Branch and Atlantic Harbor at its mouth, and those tributaries of Jarrett Bay that are closed to shellfishing. shellfishing: The the Western Bogue Sound Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin), including all waters within an area defined by a line from Bogue Inlet to the mainland at SR 1117 to a line across Bogue Sound from the southwest side of Gales Creek to Rock Point, Point and including Taylor Bay and the Intracoastal
 20 21 22 23 24 25 26 27 28 29 30 31 		(D)	 within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point. Point: The the Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin), including all waters of Core Sound and its tributaries, but excluding Nelson Bay, Little Port Branch and Atlantic Harbor at its mouth, and those tributaries of Jarrett Bay that are closed to shellfishing. shellfishing: The the Western Bogue Sound Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin) including all waters within an area defined by a line from Bogue Inlet to the mainland at SR 1117 to a line across Bogue Sound from the southwest side of Gales Creek to Rock Point, Point and including Taylor Bay and the Intracoastal Waterway. Waterway:
 20 21 22 23 24 25 26 27 28 29 30 31 32 		(D)	 within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point: The the Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin), including all waters of Core Sound and its tributaries, but excluding Nelson Bay, Little Port Branch and Atlantic Harbor at its mouth, and those tributaries of Jarrett Bay that are closed to shellfishing, shellfishing; The the Western Bogue Sound Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin) including all waters within an area defined by a line from Bogue Inlet to the mainland at SR 1117 to a line across Bogue Sound from the southwest side of Gales Creek to Rock Point, Point and including Taylor Bay and the Intracoastal Waterway. Waterway: The the Stump Sound Area (Cape Fear River Basin) Basin), including all waters of Stump
 20 21 22 23 24 25 26 27 28 29 30 31 32 33 		(D)	 within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point. Point. The the Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin), including all waters of Core Sound and its tributaries, but excluding Nelson Bay, Little Port Branch and Atlantic Harbor at its mouth, and those tributaries of Jarrett Bay that are closed to shellfishing. shellfishing. The the Western Bogue Sound Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin) including all waters within an area defined by a line from Bogue Inlet to the mainland at SR 1117 to a line across Bogue Sound from the southwest side of Gales Creek to Rock Point, Point and including Taylor Bay and the Intracoastal Waterway. Waterway: The the Stump Sound Area (Cape Fear River Basin) Basin), including all waters of Stump Sound and Alligator Bay from marker Number 17 to the western end of Permuda Island,
 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 		(D)	 within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point: The the Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin), including all waters of Core Sound and its tributaries, but excluding Nelson Bay, Little Port Branch and Atlantic Harbor at its mouth, and those tributaries of Jarrett Bay that are closed to shellfishing; shellfishing; The the Western Bogue Sound Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin) Basin), including all waters within an area defined by a line from Bogue Inlet to the mainland at SR 1117 to a line across Bogue Sound from the southwest side of Gales Creek to Rock Point, Point and including Taylor Bay and the Intracoastal Waterway: Waterway: The the Stump Sound Area (Cape Fear River Basin) Basin), including all waters of Stump Sound and Alligator Bay from marker Number 17 to the western end of Permuda Island, but excluding Rogers Bay, the Kings Creek Restricted Area Area, and Mill Creek: Creek;

In the data is near the second problem of t	1		Intracoastal Waterway and Howe Creek, but excluding Pages Creek and Futch Creek;
3 (8) In the following designated waterbodies, no new or expanded NPDES permitted discharges and 4 only new or expanded marinas with less <u>fewer</u> than 10 sings <u>slips</u> having no boats over <u>24 24</u> feet 5 in length and no boats with heads shall be allowed: 6 (A) The the Swanquarter Bay and Juniper Bay Area (Tar-Panilco River <u>Basin</u>) <u>Basin</u>]. 7 including all waters within a line beginning at Juniper Bay Point and running south and 8 then west below Great Island, then northwest to Shell Point and including <u>Shell-Bays</u> Shell. 9 Swanquarter Swanquarter and Juniper Bays and their tributaries, but excluding all waters 10 northeast of a line from a point at Lat. 35E 23N 51O and Long. 76E 21N 02O thence 11 southeast along the Swanquarter National Wildlife Refuge Institute Grosser boundary (as 12 defined by the 1935 Presidential Proclamation? Matching Uklife Refuge map at 13 und Wildlife Service Swanquarter Canal Juniper, and Quarter Ganal Sound Krea (White 14 Bitgs: New (ws.gov/southeast-pdf/map/soundurter faulto-quarter Ganal Sound Xrea (White 15 incorporated by reference? to Drum Point and also excluding the <u>Bitswart Ganal's Blowourt</u> 16 Hytelend Canal; Hydeland Juniper Canal Juniper, and Quarter Ganal Sound Area (White 17 (B) The the Back Sound Section of the Southeast Pamlico, Core and Back Sou			
4 only new or expanded marinas with less fewer than 10 sings slips having no boats over 24 24 feet 5 in length and no boats with heads shall be allowed: 6 (A) The the Swanquarter Bay and Juniper Bay Area (Tar-Pamlico River Basin) Ensin) 7 including all waters within a line beginning at Juniper Bay Point and running south and 8 then west below Great Island, then northwest to Shell Point and including Shell Bay Shell 9 Swansquarter Swanquarter and Juniper Bays and their tributaries, but excluding all waters 10 northeast of a line from a point at La. 35E 23N 510 and Long. 76E 21N 020 thence 11 southeast along the Swanquarter National Wildlife Refuge map at 12 defined by the 1935 Presidential Proclamation and depicted on the U.S. Fish 13 and Wildlife Service Swanquarter National Wildlife Refuge map at 14 https://eww.fow.goo/southeast/pdfmap/seanguarter.mational-wildlife-crefuge rdf, 15 incorporated by reference to Drum Point and also excluding the Blowaut-Canal, Blowout 16 Hyddand Canal, Hyddeland, Isuiper-Canal Iuniper, and Quarter Canals Canals; 17 (B) The flip Back Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin) Basin), including all waters within an area defined by a line from the western 18 Oak River Basin) Basin, includin		(8)	
5 in length and no boats with heads shall be allowed: 6 (A) The the Swanquarter Bay and Juniper Bay Area (Tar-Pamlico River Basin) Basin), 7 including all waters within a line beginning at Juniper Bay Point and running south and 8 then west below Great Island, then northwest to Shell Point and including Shell Bay, Shell 9 Swanquarter and Juniper Bay and their tributaries, but excluding all waters 10 northeast of a line from a point at Lat. 35E 23N 51O and Long. 76E 21N 02O thence 11 southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as 12 defined by the 1935 Presidential Presidential Presidential Presidential Presidential Presidential Wildlife Refuge nump at 14 https://www.fws.gov/coutheast.pdf/map/wanquarter-national-wildlife-refuge.pdf/ 15 incorporated by reference) to Drum Point and also excluding the Buweott Canal, Blowout 18 Oak River Basin) Basin), including that area of Back Sound Area (White 19 west along Shackleford Banks, then north to the westermanest westerming point of Middle 21 Affer Basin Basin), including all waters' Island, and along the southear to Middle Marshes (to include all of Middle 21 Marshes), then west to Rush Point on Harker's Island, and along the southers to the southwast mouth of Goose Creek on the mainland, east to 23 <		(0)	
6 (A) The fig Swanquarter Bay and Juniper Bay Area (Tar-Pamlico River Basin), including all waters within a line beginning at Juniper Bay Point and running south and then west below Great Island, then northwest to Shell Point and including Shell-Bay, Shell, 9 Swanquarter Swanquarter, and Juniper Bays and their tributaries, but excluding all waters northeast of a line from a point at Lat. 35E 23N 510 and Long. 76E 21N 020 thence southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as defined by the 1935 Presidential Pawsanasiania) Proclamation and depicted on the U.S. Fisht 13 and Wildlife Service Swanquarter National Wildlife Refuge map at Integrational Wildlife Service Swanquarter National Wildlife Refuge map at Integrational Actional Hyddland Juniper Bays and their tributaries, but excluding the Biowaut Canal, Blowout, Hyddland-Canal, Hyddland, Juniper Canal, Juniper, and Quarter Canal, Canals, Hyddland-Canal, Hyddland, Juniper Bays, then point and also excluding the Biowaut Canal, Blowout, Hyddland-Canal, Hyddland, Juniper Bays, then orth to the western and Back Sound Area (White Oak River Basin), including that area of Back Sound extending from Core Sound west along Shackleford Banks, then north to the western and yestermoog point of Middle Marshes and along the northwest shore of Middle Marshes (to include all of Middle Marshes), then west to Rush Point on Harker's Island, and along the southern shore of Harker's Island Area (White Oak River Basin) including all waters in south of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south to green marker No. 49, then northeaster most point on Baer Island, then southestat alon			
7 including all waters within a line beginning at Juniper Bay Point and running south and 8 then west below Great Island, then northwest to Shell Point and including Shell-Bay, Shell. 9 Swanquarter Swanquarter, and Juniper Bays and their tributaries, but excluding all waters 10 northeast of a line from a point at Lat. 35E 23N 51O and Long. 76E 21N 02O thence 11 southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as 12 defined by the 1935 Presidential Preclemation Preclanation and depicted on the U.S. Fisl 13 and Wildlife Service Swanquarter National Wildlife Refuge map at 14 https://www.fixe.gov/southeast.pdf/maprexanuurater-mailcond-weinfilte-refuge.pdf. 15 incorporated by reference! to Turn Point and also excluding the Bioweut-Canal. Bloweut 16 Hydeland-Canal. Hydeland, Janiper-Canal. Juniper, and Quarter Ganal. Canals. The file Back Sound Section of the Southeast Pamlico, Core and Back Sound Area (White 18 Oak River Basin). Basin], including that area of Back Sound extending from Core Sound Warshes and along the northwest shore of Middle Marshes (to include all of Middle 20 Harker's Island back to Core Sound. Sound? Sound Canal. File Be Back Island Section of the Western Bogue Sound and Bear Island Area (White Oak 21 Harker's Island back to Core Sound. Sound? Sound Canal. Sound Cana			
8 then west below Great Island, then northwest to Shell Point and including Shell Bay, Shell, 9 Swanquarter, Swanquarter, and Juniper Bays and their tributaries, but excluding all waters 10 northeast of a line from a point at Lat. 35E 23N 51O and Long. 76E 21N 02O thence 11 southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as 12 defined by the 1935 Presidential Presidential Presidentian and depicted on the U.S. Fish 13 and Wildlife Service Swanquarter National Wildlife Refuge map at 14 https://www.fiss.gov/southeastpdf/map/swanquarter-national-wildlife.refuge.pdf, 16 Hydeland Canal, Hydeland Juniper Canal Juniper, and Quarter Canal, Canals, 17 (B) The file Back Sound Section of the Southeast Pathico, Core and Back Sound Area (White 18 Oak River Basin), including that area of Back Sound extending from Core Sound 19 west along Shackleford Banks, then north to the western most westernmost point of Middle 10 Marshes and along the northwest shore of Middle Marshes (to include all of Middle 21 Harker's Island back to Core Sound, Sound? 22 (C) The file Back Island Section of the Western Bogue Sound and Bear Island Area (White Oak 23 (C) The file Back Island Section of the Western Bogue Sound and Bear Island Area (White Oak<			
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10 northeast of a line from a point at Lat. 35E 23N 51O and Long. 76E 21N 02O thence 11 southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as 12 defined by the 1935 Presidential Preelamation) Proclamation and depicted on the U.S. Fish 13 and Wildlife Service Swanquarter National Wildlife Refuge map at 14 Inter-protected by reference) to Drum Point and also excluding the Blowout Canal, Ended 16 Hydeland Ganal, Hydeland, Juniper Canal Juniper, and Quarter Canal, Canals; 17 (B) The the Back Sound Section of the Southeast Panlico, Core and Back Sound Area (White 18 Oak River Basin), Basin), including that area of Back Sound Area (White 19 west along Shackleford Banks, then north to the western most westernmost point of Middle 20 Marshes and along the northwest shore of Middle Marshes (to include all of Middle 21 Marshes), then west to Rush Point on Harker's Island, and along the southern shore of 22 Harker's Island back to Core Second Sound; 23 (C) The the Bear Island Section of the Western Bogue Sound and Bear Island Area (White Oak 24 River Basin) Basin), including all waters within an area defined by a line from the wester 25 most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to			
11 southeast along the Swanquarter National Wildlife Refuge huming closure boundary (as 12 defined by the 1935 Presidential Proclamation and depicted on the U.S. Fish 13 and Wildlife Service Swanquarter National Wildlife Refuge map at 14 https://www.fww.gov/southeast/pdf/map/swanquarter-national-wildlife-refuge.pdf. 15 incorporated by reference) to Drum Point and also excluding the Blewout Canal, Blowout. 16 Hydeland Canal, Hydeland, Juniper Canal, Juniper, and Quarter Canal, Canals: 17 (B) The he Back Sound Section of the Southeast Pamlico, Core and Back Sound Area (White 18 Oak River Basin), Basin), including that area of Back Sound extending from Core Sound 19 west along Shackleford Banks, then north to the western most westernmost point of Middle 20 Marshes and along the northwest shore of Middle Marshes (to include all of Middle 21 Marshes), then west to Rush Point on Harker's Island, and along the southern shore of 22 Harker's Island back to Core Sound; 23 (C) The the Bear Island Section of the Western Bogue Sound and Bear Island Area (White Oak 24 River Basin), including all waters within an area defined by a line from the western 25 most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to 26			
12 defined by the 1935 Presidential Proclamation? Proclamation and depicted on the U.S. Fish 13 and Wildlife Service Swanquarter National Wildlife Refuge map at 14 https://www.fws.gov/southeast/pdf/map/swanquarter-national-wildlife-erfuge.pdf. 15 incorporated by reference) to Drum Point and also excluding the Blowout Canal, Blowout 16 Hydeland Canal, Hydeland, Juniper Canal, Juniper, and Quarter Canal, Canals; 17 (B) The the Back Sound Section of the Southeast Pamlico, Core and Back Sound Area (White 18 Oak River Basin), Basin, including that area of Back Sound extending from Core Sound 19 west along Shackleford Banks, then north to the western mest westernmost point of Middle 20 Marshes and along the northwest shore of Middle Marshes (to include all of Middle 21 Marshes), then west to Rush Point on Harker's Island, and along the southern shore of 22 Harker's Island back to Core Sound. 23 (C) The the Beari Island Section of the Western Bogue Sound and Bear Island Area (White Oak 24 River Basin), including all waters within an area defined by a line from the western 25 most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to 26 the southeastern most point of Huggins Island, then south to the northeastern to			
13 and Wildlife Service Swanquarter National Wildlife Refuge map at 14 https://www.fws.gov/southeast.fulf/man/swanquarter_national_wildlife.refuge.ndf. 15 incorporated by reference] to Drum Point and also excluding the Biewout Canal, Blowout 16 Hydeland Canal, Hydeland, Buniper Canal Juniper, and Quarter Canal, Canals. 17 (B) The the Back Sound Section of the Southeast Pamlico, Core and Back Sound Area (White 18 Oak River Basim, Basim, including that area of Back Sound extending from Core Sound 19 west along Shackleford Banks, then north to the western most westernmost point of Middle 20 Marshes and along the northwest shore of Middle Marshes (to include all of Middle 21 Marshe's Island back to Core Seund. Sound. 22 Harker's Island back to Core Seund. Sound. 23 (C) The the Bear Island Section of the Western Bogue Sound and Bear Island Area (White Oak 24 River Basim) including all waters within an area defined by a line from the western most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast run sont point on Huggins Island, then southeast along the shoreline of Huggins 28 Island to the southeastern most point of Huggins Island, then south to the northeastern most point on Dudley Island, then southeaster River Basim) Basim) including all waters			
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16 Hydeland Canal, Hydeland, Juniper, Canal Juniper, and Quarter Canal, Canals, 17 (B) The the Back Sound Section of the Southeast Pamlico, Core and Back Sound Area (White 18 Oak River Basin), ancluding that area of Back Sound extending from Core Sound 19 west along Shackleford Banks, then north to the western most westernmost point of Middle 20 Marshes and along the northwest shore of Middle Marshes (to include all of Middle 21 Marshes), then west to Rush Point on Harker's Island, and along the southern shore of 22 Harker's Island back to Core Sound, Sound; 23 (C) The the Bear Island Section of the Western Bogue Sound and Bear Island Area (White Oak 24 River Basin), Basin), including all waters within an area defined by a line from the western 25 most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to 26 the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to 27 the northerm most point on Huggins Island, then south to the northeastern most 28 Island to the southeastern most point of Huggins Island, then south to the northeastern most 29 point on Dudley Island; and 31 (D) The the Masonboro Sound Area (Cape Fear River Basin), including all waters 32 <td>14</td> <td></td> <td>https://www.fws.gov/southeast/pdf/map/swanguarter-national-wildlife-refuge.pdf.</td>	14		https://www.fws.gov/southeast/pdf/map/swanguarter-national-wildlife-refuge.pdf.
17(B)The the Back Sound Section of the Southeast Pamlico, Core and Back Sound Area (White18Oak River Basin) asin), including that area of Back Sound extending from Core Sound19west along Shackleford Banks, then north to the western most westernmost point of Middle20Marshes and along the northwest shore of Middle Marshes (to include all of Middle21Marshes), then west to Rush Point on Harker's Island, and along the southern shore of22Harker's Island back to Core Sound. Sound:23(C)The the Bear Island Section of the Western Bogue Sound and Bear Island Area (White Oak24River Basin), including all waters within an area defined by a line from the western25most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to26the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to27the northern most point on Huggins Island, then south to the northeastern most28point on Dudley Island, then southwest along the shoreline of Huggins29point on Dudley Island, and30tip of Bear Island', and31(D)The the Masonboro Sound Area (Cape Fear River Basin) Basin), including all waters32between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro33inlet34(9)Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5), 18-68-(1.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies:36strategies shall be required in addition to the discharge requirements specified in	15		incorporated by reference) to Drum Point and also excluding the Blowout Canal, Blowout,
18Oak River Basin) Basin), including that area of Back Sound extending from Core Sound19west along Shackleford Banks, then north to the western most westernmost point of Middle20Marshes and along the northwest shore of Middle Marshes (to include all of Middle21Marshes), then west to Rush Point on Harker's Island, and along the southern shore of22Harker's Island back to Core Sound:23(C)The the Bear Island Section of the Western Bogue Sound and Bear Island Area (White Oak24River Basin) and Jasin), including all waters within an area defined by a line from the western25most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to26the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to27the northern most point on Huggins Island, then south to the northeastern most28Island to the southeastern most point of Huggins Island, then south to the northeastern30tip of Bear Island; and31(D)The the Masonboro Sound Area (Cape Fear River Basin) Basin), including all waters32between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro33inlet;34(9)Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5),35istategies shall be required in addition to the discharge requirements specified in Subparagraph	16		Hydeland Canal, Hydeland, Juniper Canal Juniper, and Quarter Canal, Canals;
19west along Shackleford Banks, then north to the western most westernmost point of Middle20Marshes and along the northwest shore of Middle Marshes (to include all of Middle21Marshes), then west to Rush Point on Harker's Island, and along the southern shore of22Harker's Island back to Core Sound. Sound:23(C)The the Bear Island Section of the Western Bogue Sound and Bear Island Area (White Oak24River Basin) Easin), including all waters within an area defined by a line from the western25most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to26the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to27the northern most point on Huggins Island, then south to the northeastern most28Island to the southeastern most point of Huggins Island, then south to the eastern30tip of Bear Island, island; and31(D)The the Masonboro Sound Area (Cape Fear River Basin) including all waters32between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro33Inlet:34(9)Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5),3518-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies;36strategies shall be required in addition to the discharge requirements specified in Subparagraph	17		(B) The the Back Sound Section of the Southeast Pamlico, Core and Back Sound Area (White
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24River Basin) Basin), including all waters within an area defined by a line from the western25most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to26the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to27the northern most point on Huggins Island, then southeast along the shoreline of Huggins28Island to the southeastern most point of Huggins Island, then south to the northeastern most29point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern30tip of Bear Island: Island; and31(D)The the Masonboro Sound Area (Cape Fear River Basin) Basin), including all waters32between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro33Inlet; Inlet.34(9)Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5),3518-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies;36strategies shall be required in addition to the discharge requirements specified in Subparagraph	22		Harker's Island back to Core <mark>Sound.</mark> <u>Sound:</u>
25most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to26the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to27the northern most point on Huggins Island, then southeast along the shoreline of Huggins28Island to the southeastern most point of Huggins Island, then south to the northeastern most29point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern30tip of Bear Island. Island; and31(D)The the Masonboro Sound Area (Cape Fear River Basin) Basin), including all waters32between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro33Inlet; Inlet.34(9)Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5),3518-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies,36strategies shall be required in addition to the discharge requirements specified in Subparagraph	23		(C) The the Bear Island Section of the Western Bogue Sound and Bear Island Area (White Oak
26the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to27the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to28Island to the northern most point on Huggins Island, then southeast along the shoreline of Huggins29point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern30tip of Bear Island, Island; and31(D)The the Masonboro Sound Area (Cape Fear River Basin) Basin), including all waters32between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro33Inlet; Inlet.34(9)Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5),3518-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies,36strategies shall be required in addition to the discharge requirements specified in Subparagraph	24		River <mark>Basin)</mark> Basin). including all waters within an area defined by a line from the western
27the northern most point on Huggins Island, then southeast along the shoreline of Huggins28Island to the southeastern most point of Huggins Island, then south to the northeastern most29point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern30tip of Bear Island; Island; and31(D)The the Masonboro Sound Area (Cape Fear River Basin) Basin), including all waters32between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro33Inlet; Inlet.34(9)Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5),3518-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies,36strategies shall be required in addition to the discharge requirements specified in Subparagraph	25		most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to
28Island to the southeastern most point of Huggins Island, then south to the northeastern most29point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern30tip of Bear Island. Island; and31(D)The the Masonboro Sound Area (Cape Fear River Basin) Basin), including all waters32between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro33Inlet; Inlet.34(9)Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5),3518-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies,36strategies shall be required in addition to the discharge requirements specified in Subparagraph	26		the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to
29point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern30tip of Bear Island, Island; and31(D)The the Masonboro Sound Area (Cape Fear River Basin) Basin), including all waters32between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro33Inlet; Inlet.34(9)Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5),3518-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies,36strategies shall be required in addition to the discharge requirements specified in Subparagraph	27		the northern most point on Huggins Island, then southeast along the shoreline of Huggins
30tip of Bear Island. Island; and31(D)The the Masonboro Sound Area (Cape Fear River Basin) Basin), including all waters32between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro33Inlet; Inlet.34(9)Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5),3518-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies,36strategies shall be required in addition to the discharge requirements specified in Subparagraph	28		Island to the southeastern most point of Huggins Island, then south to the northeastern most
 31 (D) The the Masonboro Sound Area (Cape Fear River Basin) Basin), including all waters between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro 33 Inlet; Inlet. 34 (9) Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5), 18-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies, strategies shall be required in addition to the discharge requirements specified in Subparagraph 	29		point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern
32 between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro 33 Inlet; Inlet. 34 (9) Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5), 35 18-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies, 36 strategies shall be required in addition to the discharge requirements specified in Subparagraph	30		tip of Bear <mark>Island,</mark> <u>Island; and</u>
33Inlet; Inlet.34(9)Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5),3518-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies,36strategies shall be required in addition to the discharge requirements specified in Subparagraph	31		(D) The the Masonboro Sound Area (Cape Fear River Basin) Basin), including all waters
 (9) Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5), 18-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies, strategies shall be required in addition to the discharge requirements specified in Subparagraph 	32		between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro
 35 36 18-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies, strategies shall be required in addition to the discharge requirements specified in Subparagraph 	33		Inlet, Inlet.
36 <u>strategies shall be required</u> in addition to the discharge requirements specified in Subparagraph	34	(9)	Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5),
	35		18-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies,
37 (c)(1) of this Rule, shall be applied to protect the designated ORW areas: Rule:	36		
	37		(c)(1) of this Rule, shall be applied to protect the designated ORW areas: Rule:

1		(A) Storm	water controls described in Subparagraph (c)(1) of this Rule shall apply to land
2			one mile of and that drains to the designated ORW areas;
3			or expanded NPDES permitted wastewater discharges located one mile upstream of
4			eam segments designated ORW (upstream on the designated mainstem and upstream
5			irect tributaries to the designated mainstem) shall comply with the following
6			rge restrictions:
7		(i)	Oxygen Consuming Wastes: Effluent limitations shall be as follows: $\frac{BOD = 5}{D}$
8		(-)	mg/1, and NH3 N = 2 mg/1; BOD shall not exceed 5 mg/l and NH3-N shall not
9			exceed 2 mg/l;
10		(ii)	Total Suspended Solids: Discharges of total suspended solids (TSS) shall be
11			limited to effluent concentrations of 20 mg/l;
12		(iii)	Emergency Requirements: Failsafe treatment designs shall be employed,
13			including stand-by power capability for entire treatment works, dual train design
14			for all treatment components, or equivalent failsafe treatment designs;
15		(iv)	Nutrients: Where If nutrient overenrichment is projected to be a concern, effluent
16			limitations shall be set for phosphorus phosphorus, or nitrogen, or both.
17		(v)	Toxic substances: In cases where If complex discharges (those containing or
18			potentially containing toxicants) may be currently present in the discharge, a
19			safety factor shall be applied to any chemical or whole effluent toxicity allocation.
20			The limit for a specific chemical constituent shall be allocated at one-half of the
21			normal standard at design conditions. Whole effluent toxicity shall be allocated
22			to protect for chronic toxicity at an effluent concentration equal to twice that
23			which is acceptable under flow design criteria (pursuant to 15A NCAC 02B
24			.0206); pursuant to Rule .0206 of the Section.
25	(10)	Lake Waccama	w ORW Area (Lumber River Basin) [Index No. 15-2]: all undesignated waterbodies
26		that are tributar	y to Lake Waccamaw shall comply with Paragraph (c) of this Rule in order to protect
27		the designated	waters as per Rule .0203 of this Section;
28	(11)	Swift Creek an	d Sandy Creek ORW Area (Tar-Pamlico River Basin) [portion of Index No. 28-78-
29		(0.5) and Index	No. 28-78-1-(19)]: all undesignated waterbodies that drain to the designated waters
30		shall comply w	ith Paragraph (c) of this Rule in order to protect the designated waters as per Rule
31		.0203 of this Se	ection and to protect outstanding resource values found in the designated waters as
32		well as in the u	ndesignated waters that drain to the designated waters;
33	(12)	Fontana Lake N	North Shore ORW Area (Little Tennessee River Basin and Savannah River Drainage
34		Area) [Index N	os. 2-96 through <mark>2-164</mark> 2-164] (excluding all waterbodies that drain to the south shore
35		of Fontana Lal	xe) consists of the entire watersheds of all creeks that drain to the north shore of
36		Fontana Lake b	etween Eagle and Forney Creeks, including Eagle and Forney Creeks. In addition to
37		the requiremen	ts specified set forth in Subparagraph (c)(1) of this Rule, any person conducting

2 designated ORW area shall undertake the following actions to protect the outstanding resource values of the designated ORW and downstream waters: 3 values of the designated ORW and downstream waters: 4 (A) investigate for the presence of and identify the composition of acid-producing rocks by exploratory drilling or other means and characterize the net neutralization potential of the acid-producing rocks to the maximum extent practical where acid-producing rocks are found with net neutralization potential of -5 or less; 9 (C) establish background levels of acidity and mineralization prior to commencing land-disturbing activity; and for any paried thereafter for a period of the duration of the land-disturbing activity and for any paried thereafter for a period of the duration of the land-disturbing activity and for any paried thereafter for a period of the duration of the land-disturbing activity and for any paried presented by the Division as part of a certification issued in accordance with 15A NCAC 02H. 0500 or stormwater primit issued pursuant to this Rule; 15 (D) obtain a National Pollutant Discharge Elimination System NPDES permit for construction pursuant to Rule 15A NCAC 02H. 0202 or tori initiating land-disturbing activity; 18 all surfaces generated by one inch of minfelf ganfall in accordance with 15A NCAC 02H 1003(5), and 1050 and 20 (F) post development; numff characteristics and minic the natural and unique hydrology of the site; post development runoff characteristics and minic the natural and unique hydrology of the site; post development runoff characteristis and minic the natural and unique hydrology	1		develo	opment activity disturbing greater than or equal to 5,000 square feet of land area in the	
3 values of the designated ORW and downstream waters: 4 (A) investigate for the presence of and identify the composition of acid-producing rocks by exploratory drilling or other means and characterize the net neutralization potential of the acid-producing rocks prior to commencing the land-disturbing activity; 7 (B) avoid areas to the maximum extent practical where acid-producing rocks are found with net neutralization potential of -5 or less; 9 (C) establish background levels of acidity and mineralization prior to commencing land-disturbing activity activity and for any period thereafter for a period of at least but duration of the land-disturbing activity and for any period thereafter for a period of at least but duration of the land-disturbing activity and for any period thereafter for a period of at least but two years as determined by the Division as part of a certification issued in accordance with 15A NCAC 02H .0500 or stormwater permit for construction pursuant to Rule 15A NCAC 02H .0126 prior to initiating land-disturbing activity; 16 (D) obtain a National Pollutant Discharge Elimination System NPDES permit for construction pursuant to Rule 15A NCAC 02H .0126 prior to initiating land-disturbing activity; 17 (E) design stormwater control systems to control and treat stormwater runoff generated from all surfaces generated by one inch of minful minful infall, in accordance with 15A NCAC 02H .0126 prior to initiating land-disturbing activity; 18 (F) post development; replicate pre-development runoff characteristics and mimic the natural and unique hydrology of the site-post development; fiff. 20 <td< td=""><td>2</td><td></td><td></td><td colspan="2"></td></td<>	2				
4 (A) investigate for the presence of and identify the composition of acid-producing rocks by exploratory drilling or other means and characterize the net neutralization potential of the acid-producing rocks prior to commencing the land-disturbing activity; 7 (B) avoid areas to the maximum extent practical where acid-producing rocks are found with net neutralization potential of -5 or less; 9 (C) establish background levels of acidity and mineralization prior to commencing land-disturbing activity; and monitor and maintain baseline water quality conditions for the duration of the land-disturbing activity and foreany-period thereafter for a period of at least neutralization prior to customeration issued in accordance with 15A NCAC 02H .0500 or stormwater permit issued pursuant to this Rule; 15 (D) obtain a National Pollutant Discharge Elimination System NPDE's permit for construction pursuant to Rule 15A NCAC 02H .0126 prior to initiating land-disturbing activity; 17 (E) design stormwater control systems to control and treat stormwater runoff generated from all surfaces generated by one incl of similal rainfall, in accordance with 15A NCAC 02H .0500 and 20 (F) post development, replicate pre-development runoff characteristics and mimic the natural and unique hydrology of the site, post development; site. 21 13 13 22 (13) Horsepasture River ORM Area (Savannah Drainage Area) [Index No. 4 13-(0.5) and Index No. 4 23 13-(12.5)]: all undesignated waterbodies that are located within the Horsepasture River watershed .0203 of this Section and to protect outstan			-		
5 exploratory drilling or other means and characterize the net neutralization potential of the acid-producing rocks prior to commencing the land-disturbing activity; 7 (B) avoid areas to the maximum extent practical where acid-producing rocks are found with net neutralization potential of -5 or less; 9 (C) establish background levels of acidity and mineralization prior to commencing land-disturbing activity activity and monitor and maintain baseline water quality conditions for the duration of the land-disturbing activity and for any period thereafter for a period of at least the duration of the land-disturbing activity and for any period thereafter for a period of at least the duration of the land-disturbing activity and for any period thereafter for a period of at least the duration of the land-disturbing activity and for any period in accordance with 15A NCAC 02H .0500 or stormwater permit issued pursuant to this Rule; 15 (D) obtain a National Pollutant Discharge Elimination System MPDES permit for construction pursuant to Rule 15A NCAC 02H .0126 prior to initiating land-disturbing activity; 17 (E) design stormwater control systems to control and treat stormwater runoff generated from all surfaces generated by one inch of <u>minful finifalt</u> in accordance with 15A NCAC 02H .0120 prior to initiating land-disturbing activity; 19 if 008 (02H .003(3), .003(5), and 1050; and 18 and unique hydrology of the <u>site, post development site</u> . 22 (13) Horsepasture River ORW Area (Savannah Drainage Area) [Index No. 4-13-(0.5) and Index No. 4-13-(12.5)]; all undesignated watershed shall comply with Paragraph (c) of this Rule in order to protec				-	
6 acid-producing rocks prior to commencing the land-disturbing activity; 7 (B) avoid areas to the maximum extent practical where acid-producing rocks are found with net neutralization potential of -5 or less; 9 (C) establish background levels of acidity and mineralization prior to commencing land-disturbing activity and monitor and maintain baseline water quality conditions for the duration of the land-disturbing activity and for any period in the ranker (for a period of at least fast less than two years as determined by the Division as part of a certification issued in accordance with 15A NCAC 02H .0500 or stormwater permit issued pursuant to this Rule; 15 (D) obtain a National Pollutant Discharge Elimination System NPDE's permit for construction pursuant to Rule 15A NCAC 02H .0126 prior to initiating land-disturbing activity; 17 (F) design stormwater control systems to control and treat stormwater runoff generated from all surfaces generated by one inch of minfall minfall; in accordance with 15A NCAC 02H .0120 and 20 (F) post development, replicate pre-development site. 21 1300(\$) (2H 1003(3), 1003(5), and 1050 and 22 (13) Horsepasture River ORW Area (Savannah Drainage Area) [Index No. 4-13-(0.5) and Index No. 4-13-(0.5)					
7 (B) avoid areas to the maximum extent practical where acid-producing rocks are found with net neutralization potential of -5 or less; 9 (C) establish background levels of acidity and mineralization prior to commencing land-disturbing activity and monitor and maintain baseline water quality conditions for the duration of the land-disturbing activity and for any period thereafter for a period of at least not-less-then two years as determined by the Division as part of a certification issued in accordance with 15A NCAC 02H .0500 or stormwater permit issued pursuant to this Rule; 15 (D) obtain a National Pollutant Discharge Elimination System NPDES permit for construction pursuant to Rule 15A NCAC 02H .0126 prior to initiating land-disturbing activity; 17 (F) design stormwater control systems to control and treat stormwater runoff generated from all surfaces generated by one inch of minital in land-disturbing activity; 18 all surfaces generated by one inch of minital in land. 20 (F) post development, replicate pre-development runoff characteristics and mimic the natural and unique hydrology of the site, post development, site; 21 (13) Horsepasture River ORW Area (Savannah Drainage Area) [Index No. 4-13-(0.5) and Index No. 4-13-(12.5)]; all undesignated waterbodies that are located within the Horsepasture River watershed shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section and to protect outstanding resource values found throughout the watershed. However, new domestic wastewater discharges and expansions of existing wastewater discharges may shall be allowed provided that:					
8 net neutralization potential of -5 or less; 9 (C) establish background levels of acidity and mineralization prior to commencing land- disturbing setivity, activity and monitor and maintain baseline water quality conditions for the duration of the land-disturbing activity and for any period thereafter for a period of at lengt not-less than two years as determined by the Division as part of a certification issued in accordance with 15A NCAC 02H .0500 or stormwater permit issued pursuant to this Rule; 15 (D) obtain a National Pollutant Discharge Elimination System NPDES permit for construction pursuant to Rule 15A NCAC 02H .0126 prior to initiating land-disturbing activity; 16 pursuant to Rule 15A NCAC 02H .0126 prior to initiating land-disturbing activity; 17 (E) design stormwater control systems to control and treat stormwater runoff generated from all surfaces generated by one inch of simfall rainfall, in accordance with 15A NCAC 02H 19068; 02H .1003(3), 1003(5), and .1050; and 20 (F) post development, replicate pre-development, gite; 21 and unique hydrology of the site, post development, gite; 22 (13) Horsepasture River ORW Area (Savannah Drainage Area) [Index No. 4-13-(0.5) and Index No. 4- 13-(12.5)]; all undesignated waterbodies that are located within the Horsepasture River watershed shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section and to protect outstanding resource values found throughout the watershed. 26 However, new domestic			(B)		
10 disturbing betivity, activity and monitor and maintain baseline water quality conditions for 11 the duration of the land-disturbing activity and for any period thereafter for a period of al 12 least net less than 13 in accordance with 15A NCAC 02H .0500 or stormwater permit issued pursuant to this 14 Rule: 15 (D) obtain a National Pollutant Discharge Elimination System NPDES permit for construction 16 pursuant to Rule 15A NCAC 02H .0126 prior to initiating land-disturbing activity; 17 (E) design stormwater control systems to control and treat stormwater runoff generated from 18 all surfaces generated by one inch of reinfall rainfall, in accordance with 15A NCAC 02H.1003(3), 1003(5), and 1050; and 20 (F) post development, replicate pre-development runoff characteristics and mimic the natural 21 and unique hydrology of the site, pest development, site. 22 (13) Horsepasture River ORW Area (Savannah Drainage Area) [Index No. 4-13-(0.5) and Index No. 4-13-(12.5)]: all undesignated waterbodies that are located within the Horsepasture River watershed 24 shall comply with Paragraph (c) of this Rule in order to protect the designated watershares 25 .0203 of this Section and to protect outstanding resource values found throughout the watershed. 26	8				
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11 the duration of the land-disturbing activity and for any period of at 12 least not less than 13 in accordance with 15A NCAC 02H .0500 or stormwater permit issued pursuant to this 14 Rule; 15 (D) obtain a National Pollutant Discharge Elimination System NPDES permit for construction 16 pursuant to Rule 15A NCAC 02H .0126 prior to initiating land-disturbing activity; 17 (E) design stormwater control systems to control and treat stormwater runoff generated from 18 all surfaces generated by one inch of minfall minfall, in accordance with 15A NCAC 02H. 19 100%; 02H .1003(3), .1003(5), and .1050; and 20 (F) post development, replicate pre-development runoff characteristics and mimic the natural and unique hydrology of the site, post development; site; 21 and unique hydrology of the site, post development; site; 22 (13) Horsepasture River ORW Area (Savannah Drainage Area) [Index No. 4-13-(0.5) and Index No. 4-13-(12.5)]: all undesignated waterbodies that are located within the Horsepasture River watershed. 24 shall comply with Paragraph (c) of this Rule in order to protect the designated watershed. 25 .0203 of this Section and to protect outstanding resource values found throughout the watershed. 26 However, new domestic wastewater dischar	10				
12 Icast net less that in accordance with 15A NCAC 02H .0500 or stormwater permit issued pursuant to this Rule; 15 (D) obtain a National Pollutant Discharge Elimination System NPDES permit for construction pursuant to Rule 15A NCAC 02H .0126 prior to initiating land-disturbing activity; 17 (E) design stormwater control systems to control and treat stormwater runoff generated from all surfaces generated by one inch of reinfall rainfall, in accordance with 15A NCAC 02H. 19 1008; 02H .1003(3), .1003(5), and .1050; and 20 (F) post development, replicate pre-development, site; 21 and unique hydrology of the site, post development, site; 22 (13) Horsepasture River ORW Area (Savannah Drainage Area) [Index No. 4-13-(0.5) and Index No. 4- 13-(12.5)]: all undesignated waterbodies that are located within the Horsepasture River watershed shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule 24 25 .0203 of this Section and to protect outstanding resource values form 14 NH3-N = 2 mg/1; BOD shall not exceed 5 mg/1 and NH3-N shall not exceed 2 mg/1; 30 30 (B) Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters except for mining operations, which will shall be held to their respective NPDES TSS permit 33 33 [Imits; 34 (C) Nutrients: W	11				
14 Rule; 15 (D) obtain a National Pollutant Discharge Elimination System NPDES permit for construction pursuant to Rule 15A NCAC 02H.0126 prior to initiating land-disturbing activity; 17 (E) design stormwater control systems to control and treat stormwater runoff generated from all surfaces generated by one inch of rainfall rainfall, in accordance with 15A NCAC 02H, 1008; 02H 1003(3), 1003(5), and 1050; and 20 (F) post development, replicate pre-development runoff characteristics and mimic the natural and unique hydrology of the site, post development, site. 21 (13) Horsepasture River ORW Area (Savannah Drainage Area) [Index No. 4-13-(0.5) and Index No. 4- 13-(12.5)]: all undesignated waterbodies that are located within the Horsepasture River watershed shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section and to protect outstanding resource values found throughout the watershed. However, new domestic wastewater discharges and expansions of existing wastewater discharges may shall be allowed provided that: 28 (A) Oxygen Consuming Wastes: Effluent limitations shall be as follows: BOD=5 mg/4, and NH3 N = 2 mg/4; BOD shall not exceed 5 mg/1 and NH3-N shall not exceed 2 mg/1; 30 (B) Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters except for mining operations, which will shall be held to their respective NPDES TSS permit limits; 34 (C) Nutrie	12			least not less than two years as determined by the Division as part of a certification issued	
15 (D) obtain a National Pollutant Discharge Elimination System NPDES permit for construction pursuant to Rule 15A NCAC 02H .0126 prior to initiating land-disturbing activity; 17 (E) design stormwater control systems to control and treat stormwater runoff generated from all surfaces generated by one inch of sinfall rainfall, in accordance with 15A NCAC 02H. 19 100%; 02H .1003(3), .1003(5), and .1050; and 20 (F) post development, replicate pre-development runoff characteristics and mimic the natural and unique hydrology of the site, post development, site. 21 (13) Horsepasture River ORW Area (Savannah Drainage Area) [Index No. 4-13-(0.5) and Index No. 4-13-(12.5)]; all undesignated waterbodies that are located within the Horsepasture River watershed 24 shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule 25 .0203 of this Section and to protect outstanding resource values found throughout the watershed. 26 However, new domestic wastewater discharges and expansions of existing wastewater discharges 27 may shall be allowed provided that: 28 (A) Oxygen Consuming Wastes: Effluent limitations shall be as follows: BOD = 5 mg/1, and 29 MH3 N = 2 mg/1; BOD shall not exceed 5 mg/1 and NH3-N shall not exceed 2 mg/1; 30 (B) Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluen	13			in accordance with 15A NCAC 02H .0500 or stormwater permit issued pursuant to this	
16 pursuant to Rule 15A NCAC 02H. 0126 prior to initiating land-disturbing activity; 17 (E) design stormwater control systems to control and treat stormwater runoff generated from 18 all surfaces generated by one inch of rainfall rainfall, in accordance with 15A NCAC 02H. 19 100%; 02H.1003(3)1003(5), and .1050; and 20 (F) post development, replicate pre-development runoff characteristics and mimic the natural 21 and unique hydrology of the site, post development, site. 22 (13) Horsepasture River ORW Area (Savannah Drainage Area) [Index No. 4-13-(0.5) and Index No. 4- 23 13-(12.5)]: all undesignated waterbodies that are located within the Horsepasture River watershed 24 shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule 25 .0203 of this Section and to protect outstanding resource values found throughout the watershed. 26 However, new domestic wastewater discharges and expansions of existing wastewater discharges 27 may shall be allowed provided that: 28 (A) Oxygen Consuming Wastes: Effluent limitations shall be as follows: BOD = 5 mg/1, and 29 NH3 N = 2 mg/1; BOD shall not exceed 5 mg/1 and NH3-N shall not exceed 2 mg/1; 30 (B) Total Suspended Solids: Discharges of total	14			Rule;	
17 (E) design stormwater control systems to control and treat stormwater runoff generated from all surfaces generated by one inch of minfall minfall, in accordance with 15A NCAC 0211, 1908; 02H_1003(3)_1003(5), and 1050; and 19 1008; 02H_1003(3)_1003(5), and 1050; and 20 (F) post development, replicate pre-development runoff characteristics and mimic the natural and unique hydrology of the site, post development, site. 22 (13) Horsepasture River ORW Area (Savannah Drainage Area) [Index No. 4-13-(0.5) and Index No. 4- 13-(12.5)]: all undesignated waterbodies that are located within the Horsepasture River watershed shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section and to protect outstanding resource values found throughout the watershed. However, new domestic wastewater discharges and expansions of existing wastewater discharges may shall be allowed provided that: 28 (A) Oxygen Consuming Wastes: Effluent limitations shall be as follows: BOD = 5 mg/1, and NH3-N = 2 mg/1; BOD shall not exceed 5 mg/1 and NH3-N shall not exceed 2 mg/1; 30 (B) Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters except for mining operations, which will shall be held to their respective NPDES TSS permit limits; 34 (C) Nutrients: Where If nutrient overenrichment is projected to be a concern, effluent	15		(D)	obtain a National Pollutant Discharge Elimination System NPDES permit for construction	
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191000; 02H .1003(3), .1003(5), and .1050; and20(F)post development, replicate pre-development runoff characteristics and mimic the natural21and unique hydrology of the site, post development, site.22(13)Horsepasture River ORW Area (Savannah Drainage Area) [Index No. 4-13-(0.5) and Index No. 4-2313-(12.5)]: all undesignated waterbodies that are located within the Horsepasture River watershed24shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule25.0203 of this Section and to protect outstanding resource values found26However, new domestic wastewater discharges and expansions of existing wastewater discharges27imay shall be allowed provided that:28(A)Oxygen Consuming Wastes: Effluent limitations shall be as follows: BOD = 5 mg/1, and29NH13 N = 2 mg/1; BOD shall not exceed 5 mg/1 and NH3-N shall not exceed 2 mg/1;30(B)Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to31effluent concentrations of 10 mg/1 for trout waters and to 20 mg/l for all other waters except32for mining operations, which will shall be held to their respective NPDES TSS permit33limits;34(C)Nutrients: Where If nutrient overenrichment is projected to be a concern, effluent	17		(E)	design stormwater control systems to control and treat stormwater runoff generated from	
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	33			limits;	
35 limitations shall be set for phosphorus or phosphorus, nitrogen, or both; and	34		(C)	Nutrients: Where If nutrient overenrichment is projected to be a concern, effluent	
	35			limitations shall be set for phosphorus or phosphorus, nitrogen, or both; and	
1		(D) Volume: The total volume of treated wastewater for all discharges combined shall not			
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2		exceed 25 percent of the total instream flow in the designated ORW under 7Q10 conditions,			
3		which are as defined in Rule .0206(a)(1) of this Section;			
4	(14)	North Fork New River ORW Area (New River Basin) [Index Nos. 10-2-(1), 10-2-(11) and 10-2-			
5		(12)]: all non-ORW waterbodies waterbodies, including Little Buffalo Creek and Claybank Creek			
6		[Index Nos. 10-2-20-1 and 10 2 20 1 1] 10-2-20-1-1], that are located within the North Fork New			
7		River watershed shall comply with Rule .0224 of this Section in order to protect the ORW			
8		designated waters.			
9					
10	History Note:	Authority G.S. 143-214.1; S.L. 2005-97;			
11		Eff. October 1, 1995;			
12		Amended Eff. August 1, 2003 (see S.L. 2003-433, s.2); August 1, 2000; April 1, 1996; January 1,			
13		1996;			
14		Temporary Amendment Eff. October 7, 2003;			
15		Amended Eff. December 1, 2010; July 1, 2009; January 1, 2007; June 1, 2004. <u>2004;</u>			
16		<u>Readopted Eff. September 1, 2019.</u>			

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15A NCAC 02B .0226 is readopted as published in 32:22 NCR 2411-2493 as follows:

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15A NCAC 02B .0226 EXEMPTIONS FROM SURFACE WATER QUALITY STANDARDS

4 Variances from applicable standards, revisions to water quality standards or site-specific water quality standards may

5 be granted by the Commission on a case-by-case basis pursuant to G.S. 143-215.3(e), 143-214.3 or 143-214.1. A 6 listing of existing variances shall be maintained and made available to the public by the Division. Exemptions

6 listing of existing variances shall be maintained and made available to the public by the Division. Exemptions
7 established pursuant to this Rule shall be reviewed as part of the Triennial Review of Water Quality Standards

8 conducted pursuant to 40 CFR 131.10(g).

 9

 10
 History Note:

 Authority G.S. 143-214.1; 143-214.3; 143-215.3(e);

 11
 Eff. October 1, 1995. <u>1995;</u>

12 <u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0227

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Much of (a) appears to be unnecessary. Please review and revise.

If you need (a), what is meant by "the Commission shall develop water quality management plans on a priority basis to attain, maintain or enhance water quality throughout the state." Is that not what these Rules are doing?

In (a), what is meant by "These action may include anything within the powers of the Commission"? Please either delete this language or provide some additional information.

In (a), capitalize "state"

In (b)(1)(B), please add a comma in between "type discharges" and "such as"

In (b)(1)(C), what is the "modeled in-stream oxygen"? Is this in the permit?

In (b)(1)(C), what kind of public hearing? Is there a cross-reference available?

In (b)(2), please consider deleting "as well as the following site-specific action:" and add "In addition" before "all new individual..."

15A NCAC 02B .0227 is readopted as published in 32:22 NCR 2411-2493 as follows:

3 15A NCAC 02B .0227 WATER QUALITY MANAGEMENT PLANS

(a) In implementing the water quality standards to protect the "existing uses" [as defined by Rule .0202 of this Section]
of the waters of the state or the water quality that supports those uses, the Commission shall develop water quality
management plans on a priority basis to attain, maintain or enhance water quality throughout the state. Additional
specific actions deemed necessary by the Commission to protect the water quality or the existing uses of the waters
of the state shall be specified in Paragraph (b) of this Rule. These actions may include anything within the powers of
the Commission. The Commission may also consider local actions that have been taken to protect a waterbody in
determining the appropriate protection options to be incorporated into the water quality management plan.

(b) All waters determined by the Commission to be protected by a water quality management plan are listed with
 specific actions either in Rules .0601 - .0608 of this Subchapter that address the Goose Creek watershed (Yadkin Pee-

13 Dee River Basin) or as follows:

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(1) The Lockwoods Folly River Area (Lumber River Basin), which includes all waters of the lower Lockwoods Folly River in an area extending north from the Intracoastal Waterway to a line extending from Genoes Point to Mullet Creek, shall be protected by the specific actions described in Parts (A) through (D) of this Subparagraph.

- (A) New development activities within 575' of the mean high water line that require a Sedimentation Erosion Control Plan or a CAMA major development permit shall comply with the low density option of the coastal stormwater requirements as specified in 15A NCAC 02H .1005(3)(a).
- (B) New or expanded NPDES permits shall be issued only for non-domestic, non-industrial
 process type discharges such as non-industrial process cooling or seafood processing
 discharges. A public hearing shall be mandatory for any proposed (new or expanded)
 NPDES permit to this protected area.
 - (C) New or expanded marinas shall be located in upland basin areas.

27 (D) No dredge or fill activities shall be allowed if those activities would result in a reduction 28 of the beds of "submerged aquatic vegetation habitat" or "shellfish producing habitat" that 29 are defined in 15A NCAC 03I .0101, except for maintenance dredging, such as that 30 required to maintain access to existing channels and facilities located within the protected 31 area or maintenance dredging for activities such as agriculture.

A part of the Cape Fear River (Cape Fear River Basin) comprised of a section of Index No.18-(71)
from upstream mouth of Toomers Creek to a line across the river between Lilliput Creek and Snows
Cut shall be protected by the Class SC Sw standards as well as the following site-specific action:
All new individual NPDES wastewater discharges and expansions of existing individual NPDES
wastewater discharges shall be required to provide treatment for oxygen consuming wastes as
described in Parts (A) through (C) of this Subparagraph.

1		(A)	Effluent limitations shall be as follows: $BOD_5 = 5 \text{ mg/l}$, $NH_3-N = 1 \text{ mg/l}$ and $DO = 6 \text{ mg/l}$,
2			or utilize site-specific best available technology on a case-by-case basis for industrial
3			discharges in accordance with Rule .0406 (e) of this Subchapter.
4		(B)	Seasonal effluent limits for oxygen consuming wastes shall be considered in accordance
5			with Rule .0404 of this Subchapter.
6		(C)	Any new or expanded permitted pollutant discharge of oxygen consuming waste shall not
7			cause the dissolved oxygen of the receiving water to drop more than 0.1 mg/l below the
8			modeled in-stream dissolved oxygen at total permitted capacity for all discharges.
9			
10	History Note:	Authori	ity G.S. 143-214.1; 143-215.8A;
11		Eff. Oct	tober 1, 1995;
12		Amende	ed Eff. June 30, 2017; January 1, 1996. <u>1996;</u>
13		<u>Readop</u>	<u>ted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0228

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

On line 5, change "which" to "that" in "which shall prevent"

On line 7, how is the director to designate the effluent channels?

What is meant by "such that the channels shall"? Would it make sense to make this its own sentence? I think that the intent here is to say that if it's designated as an effluent channel, then it has to meet Items (1) through (4). Alternatively, are these the factors that will be used in making the determination? I'm thinking that it may actually be a combination of both. Please make this language more clear.

In Item (1), please delete "to be demonstrated by the discharger" and say something like "as demonstrated by..." whatever you want to see. I understand that perhaps you can't list everything, but can you provide some examples of what may constitute sufficient evidence?

In Item (2), delete or define "direct"

In Item (3), how is the determination regarding the minimization of migration of fish made?

In Item (4), are (1) through (3) used in making this determination?

15A NCAC 02B .0228 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

3 15A NCAC 02B .0228 EFFLUENT CHANNELS

4 The standards of water quality contained in this Section shall not apply to waters within effluent channels, as defined 5 in Rule .0202 of this Section, except that said waters shall be maintained at a quality which shall prevent the occurrence 6 of offensive conditions, protect public health, and allow maintenance of the standards applicable to all downstream 7 waters. Effluent channels shall be designated by the Director, such that the channels shall: 8 (1)be contained entirely on property owned (or otherwise controlled) by the discharger (to be 9 demonstrated by the discharger); 10 (2) not contain natural waters except when such waters occur in direct response to rainfall events by 11 overland runoff; 12 (3) be so constructed or modified as to minimize the migration of fish into said channel; and be identified and designated on a case-by-case basis prior to permit issuance. 13 (4) 14 15 History Note: Authority G.S. 143-214.1; 16 *Eff. October 1, 1995;* 17 Amended Eff. January 1, 1996. 1996; 18 Readopted Eff. September 1, 2019.

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0230

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

In (a)(1), delete or define "normal"

In (a)(1), add commas behind "farming", "ranching activities", and "fiber"

In (a)(1), delete "relevant" and "must" in "relevant silviculture activities must comply"

In (a)(1), where can the memo be found and what is the cost?

In (a)(2), where can information regarding the Dam Safety Program be found?

In (a)(3), what is meant by "riparian buffer protection regulations"? Do you mean the Rules? Where can they be found?

In (a)(3), here, do you mean something like "New pond construction in designated river basins shall comply with any applicable riparian buffer protection Rules"?

In (a)(5), where can additional information regarding the Sediment and Erosion Control Program be found? Is there a cross-reference available?

15A NCAC 02B .0230 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

3 15A NCAC 02B .0230 ACTIVITIES DEEMED TO COMPLY WITH WETLANDS STANDARDS

(a) The following activities for which Section 404 permits are not required pursuant to Section 404(f)(1) of the Clean
Water Act and which are not recaptured into the permitting process pursuant to Section 404(f)(2) are deemed to be in
compliance with wetland standards in 15A NCAC 2B .0231 provided that they comply with the most current versions
of the federal regulations to implement Section 404 (f) (US Environmental Protection Agency and US Army Corps of
Engineers including 40 C.F.R. 232.3) and the Sedimentation Pollution Control Act, G.S. 113A, Article 4:

- 9 (1)normal, on-going silviculture, farming and ranching activities such as plowing, seeding, cultivating, 10 minor drainage and harvesting for the production of food, fiber and forest products, or upland soil 11 and water conservation practices, provided that relevant silvicultural activities must comply with 12 U.S. Environmental Protection Agency and U.S. Army Corps of Engineers Memorandum to the 13 Field entitled "Application of Best Management Practices to Mechanical Silvicultural Site 14 Preparation Activities for the Establishment of Pine Plantations in the Southeast", November 28, 15 1995 which is hereby incorporated by reference including any subsequent amendments and editions; 16 (2)maintenance, including emergency reconstruction of recently damaged parts, of currently 17 serviceable structures such as dikes, dams, levees, groins, riprap, breakwaters, causeways, and 18 bridge abutments or approaches, and transportation structures, and other maintenance, repairs or 19 modification to existing structures as required by the NC Dam Safety Program;
- (3) construction and maintenance of farm or stock ponds or irrigation ditches. In addition, new pond
 construction in designated river basins with riparian buffer protection regulations also must comply
 with relevant portions of those regulations;
- (4) maintenance of drainage ditches, provided that spoil is removed to high ground, placed on top of
 previous spoil, or placed parallel to one side or the other of the ditch within a distance of 20 feet and
 spoils are placed in a manner that minimizes damages to existing wetlands; and ditch maintenance
 is no greater than the original depth, length and width of the ditch;
- (5) construction of temporary sediment control measures or best management practices as required by
 the NC Sediment and Erosion Control Program on a construction site, provided that the temporary
 sediment control measures or best management practices are restored to natural grade and stabilized
 within two months of completion of the project and native woody vegetation is reestablished during
 the next appropriate planting season and maintained; and
- 32 (6) construction or maintenance of farm roads, forest roads, and temporary roads for moving mining 33 equipment where such roads are constructed and maintained in accordance with best management 34 practices, as defined in 40 C.F.R. 232.3 (c)(6)(i-xv), to assure that flow and circulation patterns and 35 chemical and biological characteristics of the navigable waters are not impaired, that the reach of 36 navigable waters is not reduced, and that any adverse effects on the aquatic environment will be 37 otherwise minimized.

1 (b) Where the Director determines, in consultation with the US Army Corps of Engineers or the US Environmental 2 Protection Agency, and considering existing or projected environmental impact, that an activity is not exempt from 3 permitting under Section 404(f), or where the appropriate Best Management Practices are not implemented and 4 maintained in accordance with Paragraph (a) of this Rule, the Director may require restoration of the wetlands as well 5 as imposition of enforcement measures as authorized by G.S. 143-215.6A (civil penalties), G.S. 143-215.6B (criminal 6 penalties) and G.S. 143-215.6C (injunctive relief). 7 8 History Note: Authority G.S. 143-214.1; 143-214.7; 143-215; 143-215.3; 143-215.6A; 143-215.6B; 143-215.6C; 9 Temporary Adoption Eff. November 24, 1999; 10 Eff. April 1, 2001. 2001; 11 Readopted Eff. September 1, 2019.

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0231

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

In (a), line 10, classify wetlands as what? WL or SWL? Does this have to do with .0225? Please review and clarify.

On line 12, by "state", do you mean the State of North Carolina? If so, please capitalize "state."

In (b), add a comma after "restore"

In (b)(1), delete or define "extreme" in "extreme water level fluctuations."

In (b)(1), should "the moderation of extreme water level fluctuations" be its own Subparagraph?

In (b)(2), add a comma after "functions" and before "including"

In (b)(3), what is meant by "adversely impact"? I assume that this is a term or art and/or is defined elsewhere in rule, statute, or CFR? Same question for (c).

In (b)(3), capitalize "state"

In (b)(5), add a comma after "organisms" and before "including"

In (b)(5), either delete "but not limited" as unnecessary or add a comma after "to"

In (b)(5), add a comma in between "organisms" and "and the plants..."

In (b)(6) add commas after "reptiles" and "travel corridors"

In (c)(1) add a comma after "other solids"

Amber May Commission Counsel Date submitted to agency: July 30, 2019 In (c)(1), (2), (3), and (4), should "may not be present" be "shall not be present"

In (c)(1), (2), (3), and (4), change "which" to "that" in "which may cause..."

In (c)(3), what is "unsightliness"? Please delete or define.

In (c)(3), add a comma after "taste"

In (c)(4), change "which" to "that" in "which are toxic"

In (c)(4), add a comma in between "animal" and "or plant life"

In (c)(5)(A), add a comma in between "erosion: and "or sedimentation patterns"

In (c)(5)(C), please add a comma in between "nutrient" and "and dissolved oxygen"

15A NCAC 02B .0231 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

3	15A NCAC 021	3.0231 WETLAND STANDARDS
4	(a) Wetlands sh	all be assigned to one of the following classifications:
5	<u>(1)</u>	Class WL: waters that meet the definition of wetlands as defined in Rule .0202 of this Section except
6		those designated as [SWL.] SWL; or
7	<u>(2)</u>	Class SWL: waters that meet the definition of coastal wetlands as defined by 15A NCAC 07H .0205,
8		which are landward of the mean high water line, and wetlands contiguous to estuarine waters as
9		defined by 15A NCAC 07H .0206.
10	In addition, the	EMC may classify wetlands that are of exceptional state or national ecological significance which
11	require special p	protection to maintain existing uses as unique wetlands (UWL). UWLs may include wetlands that have
12	<u>been documente</u>	d as habitat essential for the conservation of state or federally listed threatened or endangered species.
13	(a)(b) General.	The water quality standards for all wetlands are designed to protect, preserve, restore and enhance the
14	quality and uses	of wetlands and other waters of the state influenced by wetlands. The following are wetland uses:
15	(1)	Storm and flood water storage and retention and the moderation of extreme water level fluctuations;
16	(2)	Hydrologic functions including groundwater discharge that contributes to maintain dry weather
17		streamflow and, at other locations or times, groundwater recharge that replenishes the groundwater
18		system;
19	(3)	Filtration or storage of sediments, nutrients, toxic substances, or other pollutants that would
20		otherwise adversely impact the quality of other waters of the state;
21	(4)	Shoreline protection against erosion through the dissipation of wave energy and water velocity and
22		stabilization of sediments;
23	(5)	Habitat for the propagation of resident wetland-dependent aquatic organisms including, but not
24		limited to fish, crustaceans, mollusks, insects, annelids, planktonic organisms and the plants and
25		animals upon which these aquatic organisms feed and depend upon for their needs in all life stages;
26		and
27	(6)	Habitat for the propagation of resident wetland-dependent wildlife species, including mammals,
28		birds, reptiles and amphibians for breeding, nesting, cover, travel corridors and food.
29	(b)(c) The follo	wing standards shall be used to assure the maintenance or enhancement of the existing uses of wetlands
30	identified in Par	agraph (a)(b) of this Rule:
31	(1)	Liquids, fill or other solids or dissolved gases may not be present in amounts which may cause
32		adverse impacts on existing wetland uses;
33	(2)	Floating or submerged debris, oil, deleterious substances, or other material may not be present in
34		amounts which may cause adverse impacts on existing wetland uses;
35	(3)	Materials producing color, odor, taste or unsightliness may not be present in amounts which may
36		cause adverse impacts on existing wetland uses;

1	(4)	Concentrations or combinations of substances which are toxic or harmful to human, animal or plant
2		life may not be present in amounts which individually or cumulatively may cause adverse impacts
3		on existing wetland uses;
4	(5)	Hydrological conditions necessary to support the biological and physical characteristics naturally
5		present in wetlands shall be protected to prevent adverse impacts on:
6		(A) Water currents, erosion or sedimentation patterns;
7		(B) Natural water temperature variations;
8		(C) The chemical, nutrient and dissolved oxygen regime of the wetland;
9		(D) The movement of aquatic fauna;
10		(E) The pH of the wetland; and
11		(F) Water levels or elevations.
12	(6)	The populations of wetland flora and fauna shall be maintained to protect biological integrity as
13		defined <mark>at in</mark> 15A NCAC 2B .0202. <u>Rule .0202 of this Section.</u>
14		
15	History Note:	Authority G.S. 143-214.1; 143-215.3(a)(1);
16		RRC Objection Eff. July 18, 1996 due to lack of statutory authority and ambiguity;
17		Eff. October 1, 1996. <u>1996;</u>
18		<u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0301

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

In (b), would it be appropriate to add CA?

Would it be appropriate to make the last sentence in (b) ("The 'best usage'..." its own Paragraph?

In (d), since you've provided the weblink in (a), I don't think it's necessary to do so again in this Paragraph.

In (f)(1)(B), approved by whom? Is there a cross-reference available?

In (f)(1)(B), change "will" to "shall" in "will be classified"

In (f)(2), what are "different policies"? Do you mean that these are otherwise set forth in Rule? Please clarify.

- 1 2
- 15A NCAC 02B .0301 is readopted as published in 32:22 NCR 2411-2493 as follows:
- 3 15A NCAC 02B .0301 CLASSIFICATIONS: GENERAL
 - 4 (a) Schedule of Classifications. The classifications assigned to the waters of the State of North Carolina are set forth
 - 5 in the schedules of classifications and water quality standards assigned to the waters of the river basins of North
 - 6 Carolina, 15A NCAC 2B .0302 to .0317. river basin classification schedules provided on the Internet at
 - 7 http://portal.ncdenr.org/web/wq/ps/csu/classifications and in Rules .0302 to .0317 of this Section. These
 - 8 classifications are based upon the existing or contemplated best usage of the various streams and segments of streams
 - 9 in the basin, as determined through studies and evaluations and the holding of public hearings for consideration of the
 - 10 elassifications proposed. procedures described in Rule .0101 of this Subchapter.
 - 11 (b) Stream Names. The names of the streams listed in the schedules of assigned classifications were taken as far as
 - 12 possible from United States Geological Survey topographic maps. Where topographic maps were unavailable, U.S.
 - 13 Corps of Engineers maps, U.S. Department of Agriculture soil maps, and North Carolina highway maps were used
 - 14 for the selection of stream names.
 - 15 (c)(b) Classifications. The classifications assigned to the waters of North Carolina are denoted by the letters WS I,
 - 16 WS-II, WS-III, WS-IV, WS-V, B, C, SA, SB, and SC in the column headed "class." C, B, WS-I, WS-II, WS-III, WS-
 - 17 IV, WS-V, WL, SC, SB, SA, SWL, Tr, Sw, NSW, ORW, HQW, and UWL. A brief explanation of the "best usage"
 - 18 for which the waters in each class must be protected is given as follows: The "best usage", as defined in Rule .0202
 - 19 of this Subchapter, for each classification is defined in the rules as follows:
 - 20 Fresh Waters
 - 21 Class WS I: waters protected as water supplies which are in natural and undeveloped watersheds; in public 22 ownership; point source discharges of treated wastewater are permitted pursuant to Rules .0104 and .0211 of this 23 Subchapter; local programs to control nonpoint source and stormwater discharge of pollution are required; suitable
 - 25 Subenapter, local programs to control nonpoint source and stormwater disenarge of ponution are required, surable
 - 24 for all Class C uses;
 - 25 Class WS-II: waters protected as water supplies which are generally in predominantly undeveloped watersheds;
 - 26 point source discharges of treated wastewater are permitted pursuant to Rules .0104 and .0211 of this Subchapter;
 - local programs to control nonpoint source and stormwater discharge of pollution are required; suitable for all Class C
 uses;
 - Class WS-III: waters protected as water supplies which are generally in low to moderately developed watersheds;
 point source discharges of treated wastewater are permitted pursuant to Rules .0104 and .0211 of this Subchapter;
 - 31 local programs to control nonpoint source and stormwater discharge of pollution are required; suitable for all Class C
 - 32 uses;
 - 33 Class WS IV: waters protected as water supplies which are generally in moderately to highly developed
 - 34 watersheds; point source discharges of treated wastewater are permitted pursuant to Rules .0104 and .0211 of this
 - 35 Subchapter; local programs to control nonpoint source and stormwater discharge of pollution are required; suitable
 - 36 for all Class C uses;

1	Class WS-V:	waters	protected as water supplies which are generally upstream and draining to Class WS-IV waters
2	or waters previou	usly used	d for drinking water supply purposes or waters used by industry to supply their employees,
3	but not municipa	lities or	counties, with a raw drinking water supply source, although this type of use is not restricted
4	to a WS-V class	ification	; no categorical restrictions on watershed development or treated wastewater discharges are
5	required, howev	er, the C	Commission or its designee may apply appropriate management requirements as deemed
6	necessary for the	- protecti	on of downstream receiving waters (15A NCAC 2B .0203); suitable for all Class C uses;
7	Class B: primary	recreati	on and any other usage specified by the "C" classification;
8	Class C: aquatic	life prop	pagation and survival, fishing, wildlife, secondary recreation, and agriculture.
9	Tidal Salt Water	s:	
10	Class SA:	shellfis	hing for market purposes and any other usage specified by the "SB" and "SC" classification;
11	Class SB:	primary	y recreation and any other usage specified by the "SC" classification;
12	Class SC:	aquatic	life propagation and survival, fishing, wildlife, and secondary recreation.
13	Supplemental Cl	assificat	ions
14	Trout Waters:	<u>Suitabl</u>	e for natural trout propagation and maintenance of stocked trout;
15	Swamp Waters:	Waters	which have low velocities and other natural characteristics which are different from adjacent
16	streams;		
17	NSW:	Nutrier	nt Sensitive Waters which require limitations on nutrient inputs;
18	HQW:	High (Quality Waters which are waters that are rated as excellent based on biological and
19	physical/chemica	al charac	teristics through division monitoring or special studies, native and special native trout waters
20	(waters and the	r tributa	aries) designated by the Wildlife Resources Commission, primary nursery areas (PNA)
21	designated by th	ie Marir	ne Fisheries Commission and other functional nursery areas designated by the Wildlife
22	Resources Comm	nission, (critical habitat areas designated by the Wildlife Resources Commission or the Department of
23	Agriculture, all	water suj	pply watersheds which are either classified as WS I or WS II or those for which a formal
24	petition for recla	ssificatio	on as WS-I or WS-II has been received from the appropriate local government and accepted
25	by the Division of	of Enviro	onmental Management and all Class SA waters.
26	ORW:	Outstar	nding Resource Waters which are unique and special waters of exceptional state or national
27	recreational or ea	cological	l significance which require special protection to maintain existing uses.
28	FWS:	Future	Water Supply Waters which are waters intended for future drinking water supply purposes.
29	<u>(1)</u>	Fresh V	Waters Classifications:
30		<u>(A)</u>	Class C: Rule .0211 of this Subchapter;
31		<u>(B)</u>	Class B: Rule .0219 of this Subchapter;
32		<u>(C)</u>	Class WS-I (Water Supply): Rule .0212 of this Subchapter;
33		<u>(D)</u>	Class WS-II (Water Supply): Rule .0214 of this Subchapter;
34		<u>(E)</u>	Class WS-III (Water Supply): Rule .0215 of this Subchapter;
35		<u>(F)</u>	Class WS-IV (Water Supply): Rule .0216 of this Subchapter:
36		<u>(G)</u>	Class WS-V (Water Supply): Rule .0218 of this Subchapter; and
37		<u>(H)</u>	Class WL (Wetlands): Rule .0231 of this Subchapter.

1	<u>(2)</u>	<u>Tidal Sa</u>	alt Waters Classifications:
2		<u>(A)</u>	Class SC: Rule .0220 of this Subchapter;
3		<u>(B)</u>	Class SB: Rule .0222 of this Subchapter;
4		<u>(C)</u>	Class SA: Rule .0221 of this Subchapter; and
5		<u>(D)</u>	Class SWL: Rule .0231 of this Subchapter.
6	<u>(3)</u>	Suppler	nental Classifications:
7		<u>(A)</u>	Class Tr (Trout Waters): Rule .0202 of this Subchapter;
8		<u>(B)</u>	Class Sw (Swamp): Rule .0202 of this Subchapter;
9		<u>(C)</u>	Class NSW (Nutrient Sensitive Waters): Rule .0223 of this Subchapter;
10		<u>(D)</u>	Class ORW (Outstanding Resource Waters): Rule .0225 of this Subchapter;
11		<u>(E)</u>	Class HQW (High Quality Waters): Rule .0224 of this Subchapter; and
12		<u>(F)</u>	Class UWL (Unique Wetlands): Rule .0231 of this Subchapter.
13	(d)(c) Water Q	uality Sta	andards. The water quality standards applicable to each classification assigned are those
14	established in 15	SA NCAG	C 2B .0200, Classifications and Water Quality Standards Applicable to the Surface Waters
15	of North Carolin	ia, as ado	pted by the North Carolina Environmental Management Commission. the rules of Section
16	.0200 of this Sub	ochapter.	
17	(e(1) Reading th	e Index N	lumber. The index number appearing in the column so designated is an identification number
18	assigned to each	stream o	r segment of a stream, indicating the specific tributary progression between the main stem
19	stream and the tr	ibutary s	t ream.
20	(2)	Cross-F	referencing the Index Number. The inclusion of the index number in the schedule is to
21		provide	a cross reference between the classification schedules and an alphabetic list of streams.
22	(d) Index Numb	per. The i	ndex number is an identification number assigned to each stream or segment of a stream,
23	indicating the sp	ecific tri	butary progression between the main stem stream and tributary stream. The index number
24	can be referenced	d to the D	ivision's river basin classification schedules (hydrologic and alphabetic) for each river basin.
25	The schedules ar	e availab	le online at http://portal.ncdenr.org/web/wq/ps/csu/classifications
26	(f)(e) Classificat	tion Date	The classification date indicates the date on which enforcement of the provisions of Section
27	143-215.1 of the	General	Statutes <u>143-215.1</u> of North Carolina became effective with reference to the classification
28	assigned to the v	arious str	reams in North Carolina.
29	(g) Reference. C	opies of	the schedules of classifications adopted and assigned to the waters of the various river basins
30	may be obtained	at no cha	arge by writing to:
31			Director
32			Division of Environmental Management
33			Department of Environment, Health, and Natural Resources
34			Post Office Box 29535
35			Raleigh, North Carolina 27626-0535
36			(h) Places where the schedules may be inspected:
37			Division of State Library

1			Archives State Library Building
2	109 E. Jones Street		
3	Raleigh, North Carolina.		
4	(i)(f) Unnamed	l Streams.	
5	(1)	Any str	eam which that is not named listed in the schedule of stream classifications a river basin
6		<u>classific</u>	cation schedule carries the same classification as that assigned to the stream segment to
7		which it	t is tributary except:
8		(A)	unnamed streams specifically described in the schedule of classifications; or
9		(<u>B)(A)</u>	unnamed freshwaters tributary to tidal saltwaters will be classified "C"; or
10		(<u>C)(B)</u>	after November 1, 1986, any newly created areas of tidal saltwater created by approved
11			dredging projects and which are connected to Class SA waters by approved dredging
12			projects will be classified "SC" unless case-by-case reclassification proceedings are
13			conducted. conducted per Rule .0101 of this Subchapter.
14	(2)	The foll	lowing river basins have different policies for unnamed streams entering other states or for
15		specific	areas of the basin:
16		Hiwasse	ee River Basin (Rule .0302); Little Tennessee River Basin and Savannah River Drainage
17		Area (R	Rule .0303); French Broad River Basin (Rule .0304); Watauga River Basin (Rule .0305);
18		Broad R	Civer Basin (Rule .0306); New River Basin (Rule .0307); Catawba River Basin (Rule .0308);
19		Yadkin	Pee Dee River Basin (Rule .0309); Lumber River Basin (Rule .0310); Roanoke River Basin
20		(Rule .0	313); Tar Pamlico River Basin (Rule .0316); Pasquotank River Basin (Rule .0317).
21		<u>(A)</u>	Hiwassee River Basin (Rule .0302 of this Section);
22		<u>(B)</u>	Little Tennessee River Basin and Savannah River Drainage Area (Rule .0303 of this
23			Section):
24		<u>(C)</u>	French Broad River Basin (Rule .0304 of this Section);
25		<u>(D)</u>	Watauga River Basin (Rule .0305 of this Section);
26		<u>(E)</u>	Broad River Basin (Rule .0306 of this Section):
27		<u>(F)</u>	New River Basin (Rule .0307 of this Section);
28		<u>(G)</u>	Catawba River Basin (Rule .0308 of this Section);
29		<u>(H)</u>	Yadkin-Pee Dee River Basin (Rule .0309 of this Section);
30		<u>(I)</u>	Lumber River Basin (Rule .0310 of this Section);
31		<u>(J)</u>	Roanoke River Basin (Rule .0313 of this Section);
32		<u>(K)</u>	Tar-Pamlico River Basin (Rule .0316 of this Section); and
33		<u>(L)</u>	Pasquotank River Basin (Rule .0317 of this Section).
34			
35	History Note:	Authori	ty G.S. 143-214.1; <u>143-214.5;</u> 143-215.1; 143-215.3(a)(1);
36		Eff. Feb	oruary 1, 1976;
37		Amende	ed Eff. August 1, 1995; August 3, 1992; August 1, 1990; October 1, 1989. <u>1989;</u>

Readopted Eff. September 1, 2019.

1

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0302

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Please consider beginning (a)(2) with "<u>the following offices of the</u> North Carolina..."

For consistency purposes, in (b), delete "Streams. Such" so that it reads "Unnamed Streams. Such streams entering..." I make this suggestion because you don't have this type of introductory language anywhere else in this Rule.

In (c), please consider deleting the repetitive dates. I note that this was done to Rule .0306 back in 2014 and other Rules do not have duplicates. In this Rule, the repetitive dates are in (c)(3) and (5) through (7).

In (c), out of curiosity, where is the information for August 1, 1990? Is there a reason that this information isn't in Rule like the others? I note that this date is in all of these Rules.

In (g), line 1, please move the comma found after "rules" to behind "(... .0300)"

15A NCAC 02B .0302 is readopted as published in 32:22 NCR 2411-2493 as follows:

2			
3	15A NCAC 02	B.0302 HIWASSEE RIVER BASIN	
4	(a) Places where the schedule may be inspected: Classifications assigned to the waters within the Hiwassee River		
5	<u>Basin are set f</u>	orth in the Hiwassee River Basin Classification Schedule, which may be inspected at the following	
6	places:		
7	(1)	Clerk of Court:	
8		Cherokee County	
9		Clay County; the Internet at http://portal.ncdenr.org/web/wq/ps/csu/classifications; and	
10	(2)	the North Carolina Department of Environment, Health, and Natural Resources Environmental	
11		Quality	
12		(A) Asheville Regional Office Interchange Building	
13		59 Woodfin Place <u>2090 US 70</u>	
14		Asheville, North Carolina. Swannanoa, North Carolina; and	
15		(B) Division of Water Resources	
16		Central Office	
17		512 North Salisbury Street	
18		Raleigh, North Carolina.	
19	(b) Unnamed S	Streams. Such streams entering Georgia or Tennessee shall be classified "C Tr."	
20	(c) The Hiwas	see River Basin Schedule of Classifications and Water Quality Standards Classification Schedule was	
21	amended effect	tive:	
22	(1)	August 9, 1981;	
23	(2)	February 1, 1986;	
24	(3)	March 1, 1989;	
25	(4)	August 1, 1990;	
26	(5)	August 3, 1992;	
27	(6)	July 1, 1995;	
28	(7)	August 1, 2002.	
29	(d) The Sche	dule of Classifications and Water Quality Standards for the Hiwassee River Basin Classification	
30	Schedule was a	mended effective March 1, 1989 as follows:	
31	(1)	Fires Creek (Index No. 1-27) and all tributary waters were reclassified from Class C-trout and Class	
32		C to Class C-trout ORW and Class C ORW.	
33	(2)	Gipp Creek (Index No. 1-52-23) and all tributary waters were reclassified from Class C-trout and	
34		Class C to Class C-trout ORW and Class C ORW.	
35		the of Classifications and Water Quality Standards for the Hiwassee River Basin Classification Schedule	
36		effective August 3, 1992 with the reclassification of all water supply waters (with a primary	
37	classification o	f WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as	

1	defined in the re-	vised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective		
2	on August 3, 19	on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS		
3	classification du	e to their proximity and linkage to water supply waters. In other cases, waters were reclassified from		
4	a WS classificat	ion to an alternate appropriate primary classification after being identified as downstream of a water		
5	supply intake or	identified as not being used for water supply purposes.		
6	(f) The Schedule	e of Classifications and Water Quality Standards for the Hiwassee River Basin Classification Schedule		
7	was amended eff	fective July 1, 1995 with the reclassification of the Hiwassee River [Index Nos. 1-(42.7) and 1-(48.5)]		
8	from McComb E	Branch to the Town of Murphy water supply intake including tributaries from Classes WS-IV and WS-		
9	IV CA to Classe	s WS-IV, WS-IV CA, WS-V and C.		
10	(g) The Sched	ule of Classifications and Water Quality Standards for the Hiwassee River Basin Classification		
11	Schedule was amended effective August 1, 2002 with the reclassification of the Hiwassee River [portion of Index No.			
12	1-(16.5)] from a point 1.2 mile upstream of mouth of McComb Branch to a point 0.6 mile upstream of McComb			
13	Branch (Town o	f Murphy proposed water supply intake) from Class WS-IV to Class WS-IV CA.		
14				
15	History Note:	Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);		
16		Eff. February 1, 1976;		
17		Amended Eff. August 1, 2002; July 1, 1995; August 3, 1992; August 1, 1990; March 1, 1989. <u>1989:</u>		
18		<u>Readopted Eff. September 1, 2019.</u>		
19				

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0303

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Please consider beginning (a)(2) with "the following offices of the North Carolina..."

For consistency purposes, in (b), delete "Streams. Such" so that it reads "Unnamed Streams. Such streams entering…" I make this suggestion because you don't have this type of introductory language anywhere else in this Rule.

In (c), please consider deleting the repetitive dates. I note that this was done to Rule .0306 back in 2014 and other Rules do not have duplicates. In this Rule, the repetitive dates are in (c)(3) and (5) through (7).

In (h), line 34, please move the comma found after "rules" to behind "(… .0300)"

In (q), you've said "the "+" symbol as used in this paragraph"; however, I don't see that this is used at all in this Rule. The first time I see this is in .0307. I note that I don't see any explanation for the use in .0307. Should this language be there?

1 15A NCAC 02B .0303 is readopted as published in 32:22 NCR 2411-2493 as follows: 2 3 15A NCAC 02B .0303 LITTLE TENNESSEE RIVER BASIN AND SAVANNAH RIVER DRAINAGE 4 AREA 5 (a) The Classifications assigned to the waters within the Little Tennessee River Basin and Savannah River Drainage 6 Area Schedule of Classifications and Water Quality Standards are set forth in the Little Tennessee River Basin and 7 Savannah River Drainage Area Classification Schedule, which may be inspected at the following places: 8 (1)the Internet at http://h2o.enr.state.ne.us/csu/; http://portal.ncdenr.org/web/wq/ps/csu/classifications; 9 and 10 the North Carolina Department of Environment and Natural Resources: Environmental Quality: (2)11 (A) Asheville Regional Office 12 2090 US Highway 70 13 Swannanoa, North Carolina Carolina; and 14 (B) Division of Water Quality Resources 15 Central Office 16 512 North Salisbury Street 17 Raleigh, North Carolina. 18 (b) Unnamed Streams. Such streams entering Georgia or Tennessee shall be classified "C Tr." Such streams in the 19 Savannah River drainage area entering South Carolina shall be classified "B Tr." 20 (c) The Little Tennessee River Basin and Savannah River Drainage Area Schedule of Classifications and Water 21 Quality Standards Classification Schedule was amended effective: 22 (1) February 16, 1977; 23 (2)March 1, 1977; 24 (3) July 13, 1980; 25 (4)February 1, 1986; 26 (5) October 1, 1987; 27 (6)March 1, 1989; 28 (7)January 1, 1990; July 1, 1990; 29 (8) 30 (9) August 1, 1990; 31 (10)March 1, 1991; 32 (11)August 3, 1992; 33 (12)February 1, 1993; 34 (13)August 1, 1994; 35 (14)September 1, 1996; 36 (15) August 1, 1998; 37 (16)August 1, 2000;

1	(17)	April 1, 2003;	
2	(18)	January 1, 2007;	
3	(19)	November 1, 2007;	
4	(20)	July 1, 2009.	
5	(d) The Schedu	le of Classifications of Water Quality Standards for the Little Tennessee Basin and Savannah River	
6	Drainage Area <u>(</u>	Classification Schedule was amended effective March 1, 1989 as follows:	
7	(1)	Nantahala River (Index No. 2-57) from source to the backwaters of Nantahala Lake and all tributary	
8		waters were reclassified from Class B-trout, Class C-trout and Class C to Class B-trout ORW, Class	
9		C-trout ORW and Class C ORW.	
10	(2)	Chattooga River (Index No. 3) including Scotsman Creek, Overflow Creek, Big Creek, Talley Mill	
11		Creek and all tributary waters were reclassified from Class B-trout, Class C-trout and Class C to	
12		Class B-trout ORW, Class C-trout ORW and Class C ORW and Clear Creek and all tributary waters	
13		were reclassified from Class C-trout and Class C to Class B-trout and Class B.	
14	(e) The Schedu	le of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah	
15	River Drainage	Area Classification Schedule was amended effective January 1, 1990 as follows:	
16	(1)	North Fork Coweeta Creek (Index No. 2-10-4) and Falls Branch (Index No. 2-10-4-1) were	
17		reclassified from Class C to Class B.	
18	(2)	Burningtown Creek (Index No. 2-38) was reclassified from C-trout to B-trout.	
19	(f) The Schedu	le of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah	
20	River Drainage	Area <u>Classification Schedule</u> was amended effective July 1, 1990 by the reclassification of Alarka	
21	Creek (Index No	b. 2-69) from source to Upper Long Creek (Index No. 2-69-2) including all tributaries from Classes C	
22	and C Tr to Clas	sses C HQW and C Tr HQW.	
23	(g) The Schedu	le of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah	
24	River Drainage	Area Classification Schedule was amended effective March 1, 1991 as follows:	
25	(1)	Cartoogechaye Creek [Index Nos. 2-19-(1) and 2-19-(16)] from Gibson Cove Branch to bridge at	
26		U.S. Hwy. 23 and 441 and from the bridge at U.S. Hwy. 23 and 441 to the Little Tennessee River	
27		was reclassified from Classes WS-III Tr and C Tr to Classes WS-III and B Tr and B Tr respectively.	
28	(2)	Coweeta Creek (Index Nos. 2-10) from its source to the Little Tennessee River including all	
29		tributaries except Dryman Fork (Index No. 2-10-3) and North Fork Coweeta Creek (Index No. 2-	
30		10-4) was reclassified from Classes C and C Tr to Classes B and B Tr.	
31	(h) The Schedu	le of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah	
32	River Drainage	Area <u>Classification Schedule</u> was amended effective August 3, 1992 with the reclassification of all	
33	water supply wa	aters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified	
34	to WS-I, WS-II	, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules, (15A NCAC 02B	
35	.0100, .0200 a	nd .0300) which became effective on August 3, 1992. In some cases, streams with primary	
36	classifications of	ther than WS were reclassified to a WS classification due to their proximity and linkage to water	
37	supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary		

1 classification after being identified as downstream of a water supply intake or identified as not being used for water

2 supply purposes.

3 (i) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah

- 4 River Drainage Area <u>Classification Schedule</u> has been amended effective February 1, 1993 as follows:
- 5 (1) Bearwallow Creek from its source to 2.3 miles upstream of the Toxaway River [Index No. 4-7-(1)]
 6 was revised to indicate the application of an additional management strategy (referencing 15A
 7 NCAC 02B .0201(d)(.0201(d) of this Subchapter) to protect downstream waters; and
- 8 9

10

(2) the Tuckaseegee River from its source to Tennessee Creek [Index No. 2-79-(0.5)] including all tributaries was reclassified from Classes WS-III&B Tr HQW, WS-III HQW and WS-III to Classes WS-III Tr ORW and WS-III ORW.

11 (j) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah

12 River Drainage Area Classification Schedule was amended effective August 1, 1994 with the reclassification of Deep

13 Creek [Index Nos. 2-79-63-(1) and 2-79-63-(16)] from its source to the Great Smokey Mountains National Park

14 Boundary including tributaries from Classes C Tr, B Tr and C Tr HQW to Classes WS-II Tr and WS-II Tr CA.

15 (k) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah

16 River Drainage Area <u>Classification Schedule</u> was amended effective September 1, 1996 as follows:

- 17(1)Deep Creek from the Great Smoky Mountains National Park Boundary to the Tuckasegee River18[Index no. 2-79-63-(21)] was reclassified from Class C Tr to Class B Tr; and
- 19(2)the Tuckasegee River from the West Fork Tuckasegee River to Savannah Creek and from Macks20Town Branch to Cochran Branch [Index Nos. 2-79-(24), 2-79(29.5) and 2-79-(38)] was reclassified21from Classes WS-III Tr, WS-III Tr CA and C to Classes WS-III&B Tr, WS-III&B Tr CA and B.

22 (1) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah

River Drainage Area <u>Classification Schedule</u> was amended effective August 1, 1998 with the reclassifications of

24 Thorpe Reservoir (Lake Glenville), Hurricane Creek, and Laurel Branch [Index Nos. 2-79-23-(1), 2 -79-23-2, and 2-

- 79-23-2-1 respectively] from classes WS-III&B, WS-III Tr and WS-III to classes WS-III&B HQW, WS-III Tr HQW,
 and WS-III HOW.
- 27 (m) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah
- 28 River Drainage Area <u>Classification Schedule</u> was amended August 1, 2000 with the reclassification of Wesser Creek
- 29 [Index No. 2-79-52-5-1] from its source to Williams Branch from Class C to Class C Tr.

30 (n) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah

31 River Drainage Area <u>Classification Schedule</u> was amended April 1, 2003 with the reclassification of a portion of the

32 Little Tennessee River [Index No. 2-(1)] from a point 0.4 mile upstream of N.C. Highway 28 to Nantahala River Arm

- 33 of Fontana Lake from Class C to Class B.
- 34 (o) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah
- 35 River Drainage Area Classification Schedule was amended January 1, 2007 with the reclassification of the entire
- 36 watersheds of all creeks that drain to the north shore of Fontana Lake between Eagle and Forney Creeks, including
- 37 Eagle and Forney Creeks, [Index Nos. 2-96 through 2-164 (excluding all waterbodies that drain to the south shore of

1 Fontana Lake)] from Class B, C Tr, WS-IV Tr CA, WS-IV Tr, and WS-IV & B CA to Class B ORW, C Tr ORW, 2 WS-IV Tr ORW CA, WS-IV Tr ORW, and WS-IV & B ORW CA, respectively. Additional site-specific management 3 strategies are outlined in Rule 15A NCAC 02B .0225(e)(12). Rule .0225(e)(12) of this Subchapter. 4 (p) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah 5 River Drainage Area Classification Schedule was amended effective November 1, 2007 with the reclassification of 6 Richland Balsam Seep near Beechflat Creek [Index No. 2-79-28-3-2] to Class WL UWL as defined in 15A NCAC 7 02B. 0101. UWL. The Division of Water Quality Resources maintains a Geographic Information Systems data layer 8 of the UWL. 9 (g) The Schedule of Classifications and Water Quality Standards for the Little Tennessee River Basin and Savannah 10 River Drainage Area Classification Schedule was amended July 1, 2009 with the reclassification of the watershed of the lower portion of the Horsepasture River [portion of Index Number 4-13-(12.5)] from a point approximately 0.60 11 12 miles downstream of N.C. 281 (Bohaynee Road) to the NC-SC state line from Class B Tr to Class B Tr ORW, and 13 the watershed of the upper portion of the Horsepasture River [Index Number 4-13-(0.5) and a portion of Index Number 14 4-13-(12.5)] from source to a point approximately 0.60 miles downstream of N.C. 281 (Bohaynee Road) to include only the ORW management strategy as represented by "+". The "+" symbol as used in this paragraph means that all 15 undesignated waterbodies that are located within the watershed of the upper portion of Horsepasture River shall 16 17 comply with Paragraph (c) of Rule .0225 Rule .0225(c) of this Subchapter in order to protect the designated waters as 18 per Rule .0203 of this Subchapter and to protect outstanding resource values found throughout the entire Horsepasture 19 River watershed. Site-specific management strategies are outlined in 15A NCAC 02B.0225(e)(13). Rule .0225(e)(13) 20 of this Subchapter. 21 22 History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); S.L. 2005-97; 23 Eff. February 1, 1976; 24 Amended Eff. July 1, 2009; November 1, 2007; January 1, 2007; April 1, 2003; August 1, 2000; 25 August 1, 1998; September 1, 1996; August 1, 1994; February 1, 1993; August 3, 1992; March 1, 26 1991. 1991; 27 Readopted Eff. September 1, 2019.

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0304

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Please consider beginning (a)(2) with "<u>the following offices of the</u> North Carolina..."

For consistency purposes, in (b), delete "Streams. Such" so that it reads "Unnamed Streams. Such streams entering…" I make this suggestion because you don't have this type of introductory language anywhere else in this Rule.

In (g), line 8, please move the comma found after "rules" to behind "(... .0300)"

In (v), should "is amended effective" be "was amended effective" to match language elsewhere in your Rules? Even the most recent change uses a "was" elsewhere.

15A NCAC 02B .0304 is readopted as published in 32:22 NCR 2411-2493 as follows:

3	15A NCAC 02B	.0304 FRENCH BROAD RIVER BASIN	
4	(a) Effective Fe	bruary 1, 1976, the adopted classifications Classifications assigned to the waters within the French	
5	Broad River Basin are set forth in the French Broad River Basin Schedule of Classifications and Water Quality		
6	Standards, Classi	ification Schedule, which may be inspected at the following places:	
7	(1)	the Internet at https://deq.nc.gov/river-basin-classification-schedule; and	
8	(2)	the North Carolina Department of Environmental Quality:	
9		(A) Asheville Regional Office	
10		2090 US Highway 70	
11		Swannanoa, North Carolina; and	
12		(B) Division of Water Resources	
13		Central Office	
14		512 North Salisbury Street	
15		Raleigh, North Carolina.	
16	(b) Unnamed Str	reams. Such streams entering Tennessee are classified "B."	
17	(c) The French Broad River Basin Schedule of Classifications and Water Quality Standards Classification Schedule		
18	was amended eff	cective:	
19	(1)	September 22, 1976;	
20	(2)	March 1, 1977;	
21	(3)	August 12, 1979;	
22	(4)	April 1, 1983;	
23	(5)	August 1, 1984;	
24	(6)	August 1, 1985;	
25	(7)	February 1, 1986;	
26	(8)	May 1, 1987;	
27	(9)	August 1, 1990.	
28	(d) The Schedul	le of Classifications and Water Quality Standards for the French Broad River Basin Classification	
29	Schedule was an	nended effective March 1, 1989 as follows:	
30	(1)	Cataloochee Creek (Index No. 5-41) and all tributary waters were reclassified from Class C-trout	
31		and Class C to Class C-trout ORW and Class C ORW.	
32	(2)	South Fork Mills River (Index No. 6-54-3) down to Queen Creek and all tributaries were reclassified	
33		from Class WS-I and Class WS-III-trout to Class WS-I ORW and Class WS-III-trout ORW.	
34	(e) The Schedul	le of Classifications and Water Quality Standards for the French Broad River Basin Classification	
35	Schedule was an	nended effective October 1, 1989 as follows: Cane River (Index No. 7-3) from source to Bowlens	
36	Creek and all trib	putaries were reclassified from Class C trout and Class C to Class WS-III trout and Class WS-III.	

1 (f) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin Classification

2 <u>Schedule</u> was amended effective January 1, 1990 as follows: North Toe River (Index No. 7-2) from source to Cathis

3 Creek (Christ Branch) and all tributaries were reclassified from Class C trout and Class C to Class WS-III trout and

4 Class WS-III.

- 5 (g) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin Classification
- 6 <u>Schedule</u> was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a
- 7 primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or
- 8 WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became
- 9 effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a
- 10 WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified
- 11 from a WS classification to an alternate appropriate primary classification after being identified as downstream of a
- 12 water supply intake or identified as not being used for water supply purposes.
- 13 (h) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin Classification
- 14 <u>Schedule</u> was amended effective October 1, 1993 as follows: Reasonover Creek [Index No. 6-38-14-(1)] from source
- 15 to Reasonover Lake Dam and all tributaries were reclassified from Class B Trout to Class WS-V and B Trout, and
- 16 Reasonover Creek [Index No. 6-38-14-(4)] from Reasonover Lake Dam to Lake Julia Dam and all tributaries were
- 17 reclassified from Class C Trout to Class WS-V Trout.
- 18 (i) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin Classification
- 19 Schedule was amended effective July 1, 1995 with the reclassification of Cane Creek [Index Nos. 6-57-(1) and 6-57-
- 20 (9)] from its source to the French Broad River from Classes WS-IV and WS-IV Tr to Classes WS-V, WS-V Tr and
- 21 WS-IV.
- 22 (j) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin Classification
- 23 <u>Schedule</u> was amended effective November 1, 1995 as follows: North Toe River [Index Numbers 7-2-(0.5) and 7-2-
- 24 (37.5)] from source to a point 0.2 miles downstream of Banjo Branch, including tributaries, has been reclassified from
- Class WS-III, WS-III Trout and WS-III Trout CA (critical area) to Class WS-IV Trout, WS-IV, WS-IV Trout CA,
 and C Trout.
- 27 (k) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin Classification
- 28 <u>Schedule</u> was amended effective January 1, 1996 as follows: Stokely Hollow [Index Numbers 6-121.5-(1) and 6-
- 29 121.5-(2)] from source to mouth of French Broad River has been reclassified from Class WS-II and Class WS-II CA
- 30 to Class C.
- 31 (1) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin Classification
- 32 <u>Schedule</u> was amended April 1, 1996 with the reclassification of the French Broad River [Index No. 6-(1)] from a
- 33 point 0.5 miles downstream of Little River to Mill Pond Creek to Class WS-IV; French Broad River [Index No. 6-
- 34 (51.5)] from a point 0.6 miles upstream of Mills River to Mills River to Class WS-IV CA (Critical Area), from Mills
- 35 River to a point 0.1 miles upstream of Boring Mill Branch to Class C; and the Mills River [Index No. 6-54-(5)] was
- 36 reclassified from City of Hendersonville water supply intake to a point 0.7 miles upstream of mouth of Mills River to

- 1 Class WS-III, and from a point 0.7 miles upstream of mouth of Mills River to French Broad River to Class WS-III
- 2 CA (Critical Area).
- 3 (m) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin Classification
- 4 <u>Schedule</u> was amended August 1, 1998 with the revision to the primary classification for portions of the French Broad
- 5 River [Index No. 6-(38.5)] and the North Toe River 7-2-(10.5) from Class IV to Class C.
- 6 (n) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin Classification
- 7 Schedule was amended August 1, 1998 with the reclassification of Clear Creek [Index No. 6-55-(1)] from its source
- 8 to Lewis Creek from Class C Tr to Class B Tr.
- 9 (o) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin Classification
- 10 Schedule was amended August 1, 2000 with the reclassification of Rough Creek [Index No. 5-8-4-(1)], including all
- 11 tributaries, from its source to the Canton Reservoir from Class WS-I to Class WS-I Tr ORW.
- 12 (p) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin Classification
- 13 Schedule was amended August 1, 2002 with the revision to the primary classification for the French Broad River
- 14 [Index No. 6-(1), 6-(27), 6-(47.5), 6-(52.5), and 6-(54.5)] including its four headwater forks' mainstems, watershed of
- 15 tributary Davidson River, and watershed of tributary Bent Creek below Powhatan Dam, and the Nolichucky River
- 16 [Index No. 7] including a lower portion of the North Toe River from Class C and Class WS-IV to Class B.
- 17 (q) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin Classification
- 18 <u>Schedule</u> was amended August 1, 2002 with the reclassification of the North Toe River [Index No. 7-2-(0.5)],
- 19 including all tributaries, from source to a point 0.2 mile upstream of Pyatt Creek, from Class C Tr to Class WS-V Tr.
- 20 (r) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin Classification
- 21 <u>Schedule</u> was amended September 1, 2004 with the reclassification of a portion of Richland Creek [Index No. 5-
- 22 16(1)], from source to a point approximately 11.2 miles from source (Boyd Avenue), from Class B to Class B Tr, and
- 23 all tributaries to the portion of the creek referenced in this Paragraph from C, C HQW, and WS-I HQW, and WS-I
- 24 HQW to C Tr, C HQW Tr, and WS-I HQW Tr, respectively, except Hyatt Creek [Index No. 5-16-6], Farmer Branch
- 25 [Index No. 5-16-11], and tributaries already classified as Tr.
- 26 (s) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin Classification
- 27 Schedule was amended effective November 1, 2007 with the reclassification of McClure's Bog near Gash Creek [Index
- No. 6-47] to Class WL UWL as defined in 15A NCAC 02B .0101.Rule .0202 of this Subchapter UWL. The North
- 29 Carolina Division of Water <u>Quality Resources</u> maintains a Geographic Information Systems data layer of the UWL.
- 30 (t) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin Classification
- 31 <u>Schedule</u> was amended effective September 1, 2009 with the reclassification of the entire watershed of Big Laurel
- 32 Creek (Index No. 6-112) from source to the French Broad River from Class C Tr to Class C ORW Tr.
- 33 (u) The Schedule of Classifications and Water Quality Standards for the French Broad River Basin Classification
- 34 <u>Schedule</u> was amended effective September 1, 2009 with the reclassification of the entire watershed of Spring Creek
- 35 [Index No. 6-118-(1) and 6-118-(27)] from source to the French Broad River from Class C Tr and Class C to Class C
- 36 ORW Tr and Class C ORW.

1	(v) The Schedu	ile of Classifications and Water Quality Standards for the French Broad River Basin Classification
2	Schedule is ame	ended December 1, 2011 with the reclassification of a portion of the French Broad River [Index No.
3	6-(54.5)] from t	he confluence of the Mills River to a point 0.2 miles downstream of the confluence of the Mills River
4	from Class B to	Class WS-IV&B CA.
5	(w) The Sched	ule of Classifications and Water Quality Standards for the French Broad River Basin was amended
6	January 1, 2019	with the reclassification of Enka Lake, which is a portion of the Bill Moore Creek (Index No. 6-76-
7	7) from Class C	to Class B.
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. January 1, 2019; December 1, 2011; September 1, 2009; November 1, 2007;
12		September 1, 2004; August 1, 2002; August 1, 2000; August 1, 1998; April 1, 1996; January 1,
13		1996; November 1, 1995; July 1, 1995. <u>1995:</u>
14		<u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0305

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Please consider beginning (a)(2) with "the following offices of the North Carolina..."

For consistency purposes, in (b), delete "Streams. Such" so that it reads "Unnamed Streams. Such streams entering…" I make this suggestion because you don't have this type of introductory language anywhere else in this Rule.

In (c), please consider deleting the repetitive dates. I note that this was done to Rule .0306 back in 2014 and other Rules do not have duplicates. In this Rule, the repetitive dates are in (c)(6) and (5) through (12).

In (g), line 16, please move the comma found after "rules" to behind "(... .0300)"

15A NCAC 02B .0305 is readopted as published in 32:22 NCR 2411-2493 as follows:

- 3 15A NCAC 02B .0305 WATAUGA RIVER BASIN 4 (a) The Watauga River Basin Schedule of Classifications and Water Quality Standards may be inspected at the 5 following places: Classifications assigned to the waters within the Watauga River Basin are set forth in the Watauga 6 River Basin Classification Schedule, which may be inspected at the following places: 7 the Internet at http://h2o.enr.state.nc.us/csu/; http://portal.ncdenr.org/web/wq/ps/csu/classifications; (1)8 and 9 (2)the North Carolina Department of Environment and Natural Resources: Environmental Quality: 10 (A) Asheville Regional Office 11 2090 US Highway 70 12 Swannanoa, Carolina Carolina; 13 (B) **Division of Water Quality** 14 **Central Office** 15 512 North Salisbury Street Raleigh, North Carolina. 16 17 (B) Winston-Salem Regional Office 18 450 West Hanes Mill Road 19 Winston-Salem, North Carolina; and 20 **Division of Water Resources** <u>(C)</u> 21 Central Office 22 512 North Salisbury Street Raleigh, North Carolina. 23 24 (b) Unnamed Streams. Such streams entering the State of Tennessee are classified "C." 25 (c) The Watauga River Basin Schedule of Classifications and Water Quality Standards Classification Schedule was 26 amended effective: 27 (1)August 12, 1979; 28 (2)February 1, 1986; 29 October 1, 1987; (3) 30 (4) August 1, 1989; 31 (5) August 1, 1990; 32 (6) December 1, 1990; 33 (7)April 1, 1992; 34 (8) August 3, 1992; 35 (9) February 1, 1993; 36 (10)April 1, 1994;
- 37 (11) August 1, 1998;

(12) November 1, 2007.

2	(d) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin Classification Schedule
3	was amended effective July 1, 1989 as follows:

- 4
 - (1) Dutch Creek (Index No. 8-11) was reclassified from Class C-trout to Class B-trout.
- 5 (2) Pond Creek (Index No. 8-20-2) from water supply intake (located just above Tamarack Road) to 6 Beech Creek and all tributary waters were reclassified from Class WS-III to C.

7 (e) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin Classification Schedule

8 was amended effective December 1, 1990 with the reclassification of the Watauga River from the US Highway 321

9 bridge to the North Carolina/Tennessee state line from Class C to Class B.

10 (f) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin Classification Schedule

was amended effective April 1, 1992 with the reclassification of Pond Creek from Classes WS-III and C to Classes
 WS-III Trout and C Trout.

13 (g) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin Classification Schedule

14 was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary

15 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

16 defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective

17 on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS

18 classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from

19 a WS classification to an alternate appropriate primary classification after being identified as downstream of a water

20 supply intake or identified as not being used for water supply purposes.

21 (h) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin Classification Schedule

has been was amended effective February 1, 1993 with the reclassification of Boone Fork (Index No. 8-7) and all
 tributary waters from Classes C Tr HQW and C HQW to Classes C Tr ORW and C ORW.

24 (i) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin Classification Schedule

has been was amended effective April 1, 1994 with the reclassification of the Elk River from Peavine Branch to the
 North Carolina/Tennessee state line [Index No. 8-22-(3)] from Class C Tr to Class B Tr.

27 (j) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin Classification Schedule

has been was amended effective August 1, 1998 with the reclassification of East Fork Pond Creek from its source to

29 the backwater of Santis Lake, [Index No. 8-20-2-1.5] from Class WS-II Tr to Class WS-III Tr; the reclassification of

30 West Fork Pond Creek (Santis Lake) [Index No. 8-20-2-1-(2)] from the backwaters of Santis Lake to Pond Creek from

31 WS-II Tr CA to WS-III Tr CA; and the reclassification of the connecting stream of Lake Coffey [Index No. 8-20-2-

32 2] from the dam at Lake Coffey to Pond Creek from WS-II Tr CA to C Tr.

33 (k) The Schedule of Classifications and Water Quality Standards for the Watauga River Basin Classification Schedule

34 has been was amended effective November 1, 2007 with the reclassification of the Beech Creek Bog near Beech Creek

- 35 [Index No. 8-20] to Class WL UWL as defined in 15A NCAC 02B .0101. Rule .0202 of this SubChapter UWL. The
- 36 North Carolina Division of Water <u>Quality Resources</u> maintains a Geographic Information Systems data layer of the

37 UWL.
1		
2	History Note:	Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);
3		Eff. February 1, 1976;
4		Amended Eff. November 1, 2007; August 1, 1998; April 1, 1994; February 1, 1993; August 3, 1992;
5		April 1, 1992. <u>1992:</u>
6		<u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0306

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Please consider beginning (a)(2) with "<u>the following offices of the</u> North Carolina..."

For consistency purposes, in (b), delete "Streams. Such" so that it reads "Unnamed Streams. Such streams entering…" I make this suggestion because you don't have this type of introductory language anywhere else in this Rule.

3

15A NCAC 02B .0306 is readopted as published in 32:22 NCR 2411-2493 as follows:

15A NCAC 02B .0306 BROAD RIVER BASIN

4 (a) Effective February 1, 1976, the adopted classifications Classifications assigned to the waters within the Broad

5 River Basin are set forth in the Broad River Basin Schedule of Classifications and Water Quality Standards,

6 <u>Classification Schedule</u>, which may be inspected at the following places:

7	(1)	the Internet at http://portal.ncdenr.org/web/wq/ps/csu/classifications; and	
8	(2)	<u>the</u> Nort	h Carolina Department of Environment and Natural Resources: Environmental Quality:
9		(A)	Mooresville Regional Office
10			610 East Center Avenue
11			Suite 301
12			Mooresville, North Carolina Carolina;
13		(B)	Asheville Regional Office
14			2090 US Highway 70
15			Swannanoa, North Carolina. <u>Carolina; and</u>
16		<u>(C)</u>	Division of Water Resources
17			Central Office
18			512 North Salisbury Street
19			Raleigh, North Carolina.

20 (b) Unnamed Streams. Such streams entering South Carolina are classified "C."

(c) The Broad River Basin Schedule of Classifications and Water Quality Standards <u>Classification Schedule</u> was
 amended effective:

- 23 (1) March 1, 1977;
- 24 (2) February 12, 1979;
- 25 (3) August 12, 1979;
- 26 (4) April 1, 1983;
- 27 (5) February 1, 1986.

28 (d) The Schedule of Classifications and Water Quality Standards for the Broad River Basin Classification Schedule 29 was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary 30 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 31 defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and 0300), which became effective 32 on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS 33 classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from 34 a WS classification to an alternate appropriate primary classification after being identified as downstream of a water 35 supply intake or identified as not being used for water supply purposes. 36 (e) The Schedule of Classifications and Water Quality Standards for the Broad River Basin Classification Schedule

37 was amended effective September 1, 1994 with the reclassification of the Second Broad River [Index No. 9-41-(0.5)]

- 1 from its source to Roberson Creek including associated tributaries was reclassified from Class WS-V to Classes WS-
- 2 V, WS-IV and WS-IV CA.
- 3 (f) The Schedule of Classifications and Water Quality Standards for the Broad River Basin Classification Schedule
- 4 was amended effective August 1, 1998 with the revision to the primary classification for portions of the Broad River
- 5 [Index No. 9-(23.5)] from Class WS-IV to Class C and Second Broad River [Index Nos. 9-41-(10.5) and 9-41-(14.5)]
- 6 and First Broad River [Index No. 9-50-(11)] from Class WS-IV to Class WS-V.
- 7 (g) The Schedule of Classifications and Water Quality Standards for the Broad River Basin Classification Schedule
- 8 was amended August 1, 2000 with the reclassification of the Green River [Index No. 9-29-(1)], including all
- 9 tributaries, from its source to its mouth in Lake Summit at elevation 2011 from Class C Tr to Class B Tr.
- 10 (h) The Schedule of Classifications and Water Quality Standards for the Broad River Basin Classification Schedule
- was amended effective August 1, 2000 with the reclassification of Lake Montonia [Index No. 9-54-1-(1)], and all
 tributaries, from Class B to Class B HQW.
- 13 (i) The Schedule of Classifications and Water Quality Standards for the Broad River Basin Classification Schedule
- 14 was amended effective April 1, 2001 with the reclassification of the Green River [Index No. 9-29-(1)], including all
- 15 tributaries, from its source to the downstream side of the mouth of Rock Creek from Class B Tr to Class B Tr HQW.
- 16 (j) The Schedule of Classifications and Water Quality Standards for the Broad River Basin Classification Schedule
- 17 was amended effective March 1, 2007 with the reclassification of the North Fork First Broad River (Index No. 9-50-
- 4), including all tributaries, from its source to the First Broad River from Class C Tr to Class C Tr ORW.
- (k) The Schedule of Classifications and Water Quality Standards for the Broad River Basin Classification Schedule
 was amended effective March 1, 2007 with the reclassification of a segment of the Broad River [Index No. 9-(25.5)]
- from a point 0.5 mile upstream of the City of Shelby proposed water supply intake to the City of Shelby proposed water supply intake from Class C to Class WS-IV CA, and from a point 0.5 mile upstream of the City of Shelby
- 23 proposed water supply intake to a point approximately 0.3 mile downstream of its confluence with Cane Creek from
- 24 Class C to Class WS-IV. The City of Shelby proposed water supply intake is to be placed on the Broad River at a
- 25 point approximately one mile upstream of its confluence with the First Broad River.
- 26 (1) The Schedule of Classifications and Water Quality Standards for the Broad River Basin Classification Schedule
- 27 was amended effective March 1, 2007 with the reclassification of a segment of the Broad River [Index No. 9-(25.5)]
- 28 from a point 0.5 mile upstream of the Town of Forest City proposed water supply intake to the Town of Forest City
- 29 proposed water supply intake from Class C to Class WS-IV CA, and from a point 0.5 mile upstream of the Town of
- 30 Forest City proposed water supply intake to a point approximately 0.2 mile downstream of Rutherford County SR
- 31 1145 (Town of Rutherfordton water supply intake) from Class C to Class WS-IV. The Town of Forest City proposed
- water supply intake is to be placed on the Broad River at a point approximately 0.4 mile downstream of McKinneyCreek.
- 34 (m) The Schedule of Classifications and Water Quality Standards for the Broad River Basin was Classification
- 35 <u>Schedule</u> amended effective September 1, 2014, in order to allow a water supply intake to be placed in Lake Adger
- 36 by Polk County, as follows:

(1)	a portion of the Green River [Index No. 9-29-(33)], including tributaries, from the dam at Lake
	Adger to a point 0.35 mile downstream of Rash Creek from Class C to Class WS-IV CA. The CA
	extends 0.5 mile from and draining to the normal pool elevation of Lake Adger.
(2)	a portion of the Green River from a point 0.35 mile [Index No. 9-29-(33)], including tributaries,
	downstream of Rash Creek to a point 300 feet downstream of Laurel Branch from Class C to Class
	WS-IV. The PA extends 5.0 miles from and draining to the normal pool elevation of Lake Adger.
History Note:	Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);
	Eff. February 1, 1976;
	Amended Eff. September 1, 2014; March 1, 2007; April 1, 2001; August 1, 2000; August 1, 1998;
	September 1, 1994; August 3, 1992; February 1, 1986; January 1, 1985. <u>1985;</u>
	<u>Readopted Eff. September 1, 2019.</u>
	(2)

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0307

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE</u>: 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 call our office to inquire concerning the staff recommendation.

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

Please consider beginning (a)(2) with "<u>the following offices of the</u> North Carolina..."

For consistency purposes, in (b), delete "Streams. Such" so that it reads "Unnamed Streams. Such streams entering…" I make this suggestion because you don't have this type of introductory language anywhere else in this Rule.

For consistency purposes, in (c), delete the corresponding paragraphs (e,g, "see paragraph ((d)") since you've not done this in the majority of your other similar rules and have instead deleted the duplicate information.

In (c), please consider deleting the repetitive dates. I note that this was done to Rule .0306 back in 2014 and other Rules do not have duplicates. In this Rule, all the dates listed in (c) are repetitive.

In (i), line 2, please move the comma found after "rules" to behind "(... .0300)"

15A NCAC 02B .0307 is readopted as published in 32:22 NCR 2411-2493 as follows:

3	15A NCAC 02B	.0307	NEW RIVER BASIN		
4	(a) Effective Feb	wruary 1, 1	1976, the adopted classif	ications <u>Classi</u>	fications assigned to the waters within the New River
5	Basin are set forth in the New River Basin Schedule of Classifications and Water Quality Standards, Classification				
6	Schedule, which	may be in	nspected at the followin	g places:	
7	(1)	the	Internet	at	http://portal.ncdenr.org/web/wq/ps/csu/rules;
8		http://pc	ortal.ncdenr.org/web/wq	/ps/csu/classif	cations <u>;</u> and
9	(2)	the Nort	h Carolina Department	of Environme	at and Natural Resources: Environmental Quality:
10		(A)	Asheville Regional Off	lice	
11			2090 US Highway 70		
12			Swannanoa, North Car	olina;	
13		(B)	Winston-Salem Region	al Office	
14			585 Waughtown Street	450 West Har	nes Mill Road
15			Winston-Salem, North	Carolina; and	
16		(C)	Division of Water Qua	lity <u>Resources</u>	
17			Central Office		
18			512 North Salisbury St	reet	
19			Raleigh, North Carolin	a.	
20	(b) Unnamed Sta	reams. Su	ich streams entering the	State of Tenne	essee are classified "C."
21	(c) The New R	iver Basi	n Schedule of Classific	ations and W	ater Quality Standards Classification Schedule was
22	amended effectiv	ve:			
23	(1)	August	10, 1980 (see Paragraph	(d) of this Ru	le);
24	(2)	April 1,	1983 (see Paragraph (e)	of this Rule);	
25	(3)	Februar	y 1, 1986 (see Paragraph	n (f) of this Ru	le);
26	(4)	August	1, 1989 (see Paragraph (g) of this Rule	e);
27	(5)	August	1, 1990 (see Paragraph (h) of this Rule	e);
28	(6)	August	3, 1992 (see Paragraph (i) of this Rule);
29	(7)	Februar	y 1, 1993 (see Paragraph	n (j) of this Ru	le);
30	(8)	August	1, 1998 (see Paragraph (k) of this Rule	e);
31	(9)	Novemb	per 1, 2007 (see Paragrap	ph (l) of this R	ule);
32	(10)	Decemb	er 1, 2010 (see Paragrap	oh (m) of this l	Rule); and
33	(11)	July 3, 2	2012 (see Paragraph (n)	of this Rule).	
34	(d) The Schedul	le of Clas	sifications and Water Q	uality Standa	teds for the New River Basin Classification Schedule
35	was amended effective August 10, 1980 as follows:				

1	(1)	South Fork New River [Index No. 10-1-(1)] from the confluence of the Middle Fork South Fork			
2		New River and the East Fork South Fork New River to Winkler Creek was reclassified from Class			
3		C to Class A-II;			
4	(2)	Middle Fork South Fork New River [Index Nos. 10-1-2-(6) and 10-1-2-(14)] from Brown Branch			
5		to the South Fork New River was reclassified from Class C and C Trout to Class A-II and A-II			
6		Trout;			
7	(3)	East Fork South Fork New River [Index Nos. 10-1-3-(1) and 10-1-3-(7)] was reclassified from Class			
8		C and C Trout to Class A-II and A-II Trout; and			
9	(4)	Winkler Creek [Index No. 10-1-4-(2) from Boone water supply intake dam to Watauga County SR			
10		1549 and Flannery Fork [Index No. 10-1-4-3-(2)] from the dam at Camp Sky Ranch Bathing Lake			
11		to Winkler Creek were reclassified from Class C Trout to Class A-II Trout.			
12	(e) The Sched	ule of Classifications and Water Quality Standards for the New River Basin Classification Schedule			
13	was amended	effective April 1, 1983 as follows: Naked Creek [Index No. 10-1-32] was reclassified from Class C			
14	Trout to Class				
15	(f) The Sched	ule of Classifications and Water Quality Standards for the New River Basin Classification Schedule			
16	was amended e	ffective February 1, 1986 with the reclassification of all Class A-I and A-II streams to Class WS-I and			
17	WS-III in the N	Jew River Basin.			
18	(g) The Schedule of Classifications and Water Quality Standards for the New River Basin Classification Schedule				
19	was amended e	effective August 1, 1989 as follows: South Fork New River [Index No. 10-1-(30)] from Dog Creek to			
20	New River and	all tributary waters were reclassified from Class C-trout and Class C to Class B-trout and B.			
21	(h) The Sched	ule of Classifications and Water Quality Standards for the New River Basin Classification Schedule			
22	was amended e	effective August 1, 1990 as follows:			
23	(1)	New River [Index No. 10] from the confluence of the North and South Forks New River to the last			
24		point at which the New River crosses the North Carolina/Virginia State line was reclassified from			
25		Class C to Class C HQW;			
26	(2)	South Fork New River [Index Nos. 10-1-(14.5), 10-1-(26), 10-1-(30), and 10-1-(33.5)] from Elk			
27		Creek to the confluence of the New River and North Fork New River was reclassified from Class			
28		C, B and WS-III to Class C HQW, B HQW and WS-III HQW;			
29	(3)	Howard Creek [Index Nos. 10-1-9-(1) and 10-1-9-(6)] from source to the South Fork New River			
30		was reclassified from Class WS-III Trout and C Trout to Class WS-III Trout HQW and C Trout			
31		HQW;			
32	(4)	Big Horse Creek [Index No. 10-2-21-(5.5)] from North Carolina/Virginia State line to lower Ashe			
33		County SR 1361 bridge was reclassified from Class C Trout to Class C Trout HQW; and			
34	(5)	Little River [Index No. 10-9-(11.5)] from N.C. Hwy. 18 bridge to the North Carolina/Virginia State			
35		line was reclassified from Class C to Class C HQW.			
36	(i) The Sched	ule of Classifications and Water Quality Standards for the New River Basin Classification Schedule			
37	was amended of	effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary			

1 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 2 defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective 3 on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS 4 classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from 5 a WS classification to an alternate appropriate primary classification after being identified as downstream of a water 6 supply intake or identified as not being used for water supply purposes. 7 (j) The Schedule of Classifications and Water Quality Standards for the New River Basin Classification Schedule 8 was amended effective February 1, 1993 as follows: 9 (1)the South Fork New River (Index No. 10-1-33.5) from Dog Creek to the New River was reclassified 10 from Class B HQW to Class B ORW; 11 (2)the New River (Index No. 10) from the confluence of the North And South Fork New Rivers to the 12 last point at which it crosses the North Carolina/Virginia State line was reclassified from Class C 13 HQW to Class C ORW; and 14 (3) Old Field Creek (Index No. 10-1-22) from Call Creek to the South Fork New River, and Call Creek 15 (Index No. 10-1-22-1) from its source to Old Field Creek were reclassified from Class WS-IV Trout 16 to Class WS-IV Trout ORW. 17 (k) The Schedule of Classifications and Water Quality Standards for the New River Basin Classification Schedule 18 was amended effective August 1, 1998 with the revision to the primary classification for a portion of the South Fork 19 New River [Index No. 10-1 (20.5)] from Class WS-IV to Class WS-V. 20 (1) The Schedule of Classifications and Water Quality Standards for the New River Basin Classification Schedule 21 was amended effective November 1, 2007 with the reclassification of Bluff Mountain Fen near Buffalo Creek [Index No. 10-2-20] to Class WL UWL as defined in 15A NCAC 02B .0101.Rule .0202 of this Subchapter UWL. The North 22 23 Carolina Division of Water Quality Resources maintains a Geographic Information Systems data layer of the UWL. (m) The Schedule of Classifications and Water Quality Standards for the New River Basin Classification Schedule 24 25 was amended effective December 1, 2010 with the reclassification of the North Fork New River [Index Nos. 10-2-(1), 26 10-2-(12)] and its tributaries from C+, C+ Trout and C Trout HQW to C ORW and C Trout ORW with the exception 27 of the following: 28 (1)Index Nos. 10-2-21-9, 10-2-21-(8), 10-2-(11) and 10-2-20 were reclassified from C+ and C Trout + 29 to C HQW and C Trout HQW; and 30 (2) Little Buffalo Creek and Claybank Creek (Index Nos. 10-2-20-1 and 10-2-20-1-1) did not qualify 31 for the ORW or HQW designation; however, these waters shall be managed in the same way as the 32 downstream designated HQW areas. 33 (n) The Schedule of Classifications and Water Quality Standards for the New River Basin Classification Schedule 34 was amended effective July 3, 2012 as follows: 35 (1)the portion of the South Fork New River [Index No. 10-1-(14.5)] from the Town of Boone's intake, 36 located nearly 0.5 miles upstream of SR 1100, to 875 feet downstream of SR 1351 from C HQW to WS-IV CA HQW; 37

1	(2)	the portion of the South Fork New River [Index No. 10-1-(14.5)] from 875 feet downstream of SR
2		1351 to Elk Creek from C HQW to WS-IV HQW; and
3	(3)	the portion of the South Fork New River [Index No. 10-1-(3.5)] from Elk Creek to 1.75 miles
4		upstream of SR 1351 from C+ to WS-IV +.
5		
6	History Note:	Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);
7		<i>Eff. February 1, 1976;</i>
7 8		Eff. February 1, 1976; Amended Eff. July 3, 2012; December 1, 2010; November 1, 2007; August 1, 1998; February 1,
7 8 9		
		Amended Eff. July 3, 2012; December 1, 2010; November 1, 2007; August 1, 1998; February 1,

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0308

DEADLINE FOR RECEIPT: Friday, August 9, 2019

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Please consider beginning (a)(2) with "<u>the following offices of the</u> North Carolina..."

For consistency purposes, in (b), delete "Streams. Such" so that it reads "Unnamed Streams. Such streams entering…" I make this suggestion because you don't have this type of introductory language anywhere else in this Rule.

For consistency purposes, in (b), delete the corresponding paragraphs (e,g, "see paragraph (c)") since you've not done this in the majority of your other similar rules and have instead deleted the duplicate information.

In (c), please consider deleting the repetitive dates. I note that this was done to Rule .0306 back in 2014 and other Rules do not have duplicates. In this Rule, all of the dates listed in (c) are repetitive.

In (n), line 23, please move the comma found after "rules" to behind "(... .0300)"

15A NCAC 02B .0308 is readopted as published in 32:22 NCR 2411-2493 as follows:

3	15A NCAC 02B	.0308	CATAWBA RIVER BASIN
4	(a) Effective Fel	oruary 1,	1976, the adopted classifications Classifications assigned to the waters within the Catawba
5	River Basin are	set forth	in the Catawba River Basin Schedule of Classifications and Water Quality Standards,
6	Classification Sc	<u>hedule,</u> v	which may be inspected at the following places:
7	(1)	the Inte	rnet at https://deq.nc.gov/river-basin-classification-schedule : and
8	(2)	the Nor	th Carolina Department of Environmental Quality:
9		(A)	Mooresville Regional Office
10			610 East Center Avenue, Suite 301
11			Mooresville, North Carolina;
12		(B)	Asheville Regional Office
13			2090 US Highway 70
14			Swannanoa, North Carolina; and
15		(C)	Division of Water Resources
16			Central Office
17			512 North Salisbury Street
18			Raleigh, North Carolina.
19	(b) Unnamed St	reams. Si	ich streams entering South Carolina are classified "C."
20	(c) The Catawba	a River B	asin Schedule of Classifications and Water Quality Standards Classification Schedule was
21	amended effective	ve:	
22	(1)	March	1, 1977 (see Paragraph (d) of this Rule);
23	(2)	August	12, 1979 (see Paragraph (e) of this Rule);
24	(3)	April 1,	1982 (see Paragraph (f) of this Rule; Rule);
25	(4)	January	1, 1985 (see Paragraph (g) of this Rule);
26	(5)	August	1, 1985 (see Paragraph (h) of this Rule);
27	(6)	Februar	y 1, 1986 (see Paragraph (i) of this Rule);
28	(7)	March	1, 1989 (see Paragraph (j) of this Rule);
29	(8)	May 1,	1989 (see Paragraph (k) of this Rule);
30	(9)	March	1, 1990 (see Paragraph (l) of this Rule);
31	(10)	August	1, 1990 (see Paragraph (m) of this Rule);
32	(11)	August	3, 1992 (see Paragraph (n) of this Rule);
33	(12)	April 1,	1994 (see Paragraph (o) of this Rule);
34	(13)	July 1,	1995 (see Paragraph (p) of this Rule);
35	(14)	Septem	ber 1, 1996 (see Paragraph (q) of this Rule);
36	(15)	August	1, 1998 (see Paragraph (r) of this Rule);
37	(16)	April 1,	1999 (see Paragraph (s) of this Rule);

1	(17)	August 1, 2000 (see Paragraph (t) of this Rule);
2	(18)	August 1, 2004 (see Paragraph (u) of this Rule);
3	(19)	May 1, 2007 (see Paragraph (v) of this Rule);
4	(20)	September 1, 2010 (see Paragraph (w) of this Rule);
5	(21)	March 1, 2013 (see Paragraph (x) of this Rule); and
6	(22)	July 1, 2017 (see Paragraph (y) of this Rule).
7	(d) The Schedu	le of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule
8	was amended ef	fective March 1, 1977 as follows:
9	(1)	Torrence Branch (Index No. 11-136) from source to North Carolina-South Carolina State Line was
10		reclassified from Class D to Class B; and
11	(2)	Edwards Branch (Index No. 11-137-8-2-1) from source to Brier Creek was reclassified from Class
12		D to Class C.
13	(e) The Schedul	le of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule
14	was amended ef	fective August 12, 1979 as follows: Unnamed Tributary to Lower Little River (Robinette Creek)(Index
15	No. 11-69-1.5) t	from source to Lower Little River was reclassified from Class C to Class B.
16	(f) The Schedul	e of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule
17	was amended ef	fective April 1, 1982 as follows:
18	(1)	Spainhour Creek (Index No. 11-39-3) from source to Lower Creek was reclassified from Class C
19		(1) to Class C; and
20	(2)	Allen Creek (Index No. 11-129-5-7-2-4) from source to Maiden Creek was reclassified from Class
21		C to Class A-II.
22	(g) The Schedu	le of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule
23	was amended ef	fective January 1, 1985 as follows: Catawba Creek from source to N.C. Highway 275 was reclassified
24	from Class C(1)	to Class C.
25	(h) The Schedu	le of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule
26	was amended ef	fective August 1, 1985 as follows:
27	(1)	Brier Creek (Index No. 11-137-8-2) from source to Little Sugar Creek was reclassified from Class
28		C (1) to Class C;
29	(2)	Little Hope Creek (Index No. 11-137-8-3) from source to Little Sugar Creek was reclassified from
30		Class C (1) to Class C; and
31	(3)	McMullen Creek (Index No. 11-137-9-5) from source to N.C. Highway 16 was reclassified from
32		Class C (1) to Class C.
33	(i) The Schedul	e of Classification and Water Quality Standards for the Catawba River Basin Classification Schedule
34	was amended ef	fective February 1, 1986 with the reclassification of all A-I and A-II streams to WS-I and WS-III in
35	the Catawba Riv	ver Basin.
36	(j) The Schedul	e of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule
27		

37 was amended effective March 1, 1989 as follows:

1	Wilson Creek (I	ndex No. 11-38-34) and all tributary waters were reclassified from Class B-trout and Class C-trout to			
2	Class B-trout ORW and Class C-trout ORW.				
3	(k) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule				
4	was amended effective May 1, 1989 as follows:				
5	(1)	Henry Fork [Index Nos. 11-129-1-(1) and 11-129-1-(2)] from source to Laurel Creek, including all			
6		tributaries, were reclassified from Class WS-I, C and C trout to Class WS-I ORW, C ORW and C			
7		trout ORW, except Ivy Creek and Rock Creek which will remain Class C trout and Class C; and			
8	(2)	Jacob Fork [Index Nos. 11-129-2-(1) and 11-129-2-(4)] from source to Camp Creek, including all			
9		tributaries, were reclassified from Class WS-III trout and WS-III to WS-III trout ORW and WS-III			
10		ORW.			
11	(l) The Schedul	e of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule			
12	was amended ef	fective March 1, 1990 as follows:			
13	(1)	Upper Creek [Index No. 11-35-2-(1)] from source to Timbered Branch including all tributaries			
14		except Timbered Branch (Index No. 11-35-2-9) was reclassified from Class C Trout to Class C			
15		Trout ORW; and			
16	(2)	Steels Creek [Index No. 11-35-2-12(1)] from source to Little Fork and all tributaries was reclassified			
17		from Class C Trout to Class C Trout ORW.			
18	(m) The Schedu	the of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule			
19	was amended ef	fective August 1, 1990 as follows:			
20	(1)	The classification for the portion of Mackey Creek [Index No. 11-15-(2)] from Marion Water Supply			
21		Intake to Laurel Fork was reclassified from Class C to Class C HQW;			
22	(2)	Laurel Fork Creek [Index No. 11-15-3] from source to Mackey Creek was reclassified from Class			
23		C Tr to Class C Tr HQW;			
24	(3)	Armstrong Creek [Index No. 11-24-14-(1)] from source to Bee Rock Creek was reclassified from			
25		Class WS-III Tr to Class WS-III Tr HQW;			
26	(4)	Two segments of Linville River [Index Nos. 11-29-(16) and 11-29-(19)] were reclassified from			
27		Class B Tr and Class B to Class B Tr HQW and Class B HQW, respectively;			
28	(5)	Upper Creek [Index No. 11-35-2-(8.5)] and its named tributaries were reclassified from Class C Tr			
29		to Class C Tr HQW;			
30	(6)	Upper Creek (Clear Water Beach Lake) [Index No. 11-35-2-(10)] from Holly Spring Branch to Dam			
31		Clear Water Beach Lake was reclassified from Class B Tr to Class B Tr HQW;			
32	(7)	Holly Spring Branch [Index No. 11-35-2-11] from source to Upper Creek was reclassified from			
33		Class C Tr to Class Tr HQW;			
34	(8)	Steels Creek [Index No. 11-35-2-12-(5)] from Little Fork to a point 1.7 miles upstream from N.C.			
35		Highway 181 Bridge was reclassified from Class B Tr to Class B Tr HQW and Steels Creek [Index			
36		No. 11-35-2-12-(7)] from a point 1.7 miles upstream from N.C. Highway 181 bridge to Clear Water			
37		Beach Lake, Upper Creek was reclassified from Class B to Class B HQW;			

1	(9)	Upper Creek [Index No. 11-35-2-(13)] from Dam at Clear Water Beach Lake to Warrior Fork was
2		reclassified from Class WS-III Tr to Class WS-III Tr HQW;
3	(10)	The portion of Johns River [Index No. 11-38-(28)] from Wilson Creek to Rhodhiss Lake, Catawba
4		River was reclassified from Class C to Class C HQW;
5	(11)	Mulberry Creek [Index No. 11-38-32-(1)] from source to Boone Fork and its tributaries Left Fork
6		Mulberry Creek [Index No. 11-38-32-2], Right Fork Mulberry Creek [Index No. 11-38-32-3],
7		Roaring Creek [Index No. 11-38-32-8] and Clark Branch [Index No. 11-38-32-10] were reclassified
8		from Class C Tr to Class C Tr HQW;
9	(12)	Amos Creek [Index No. 11-38-32-4] and Mills Creek [Index No. 11-38-32-5] and their named
10		tributaries were reclassified from Class C to Class C HQW;
11	(13)	Cane Branch [Index No. 11-38-32-6], Rush Branch [11-38-32-7] and Frankum Creek [11-38-32-9]
12		and its named tributaries were reclassified from Class C to Class C HQW;
13	(14)	Mulberry Creek [Index No. 11-38-32-(11)] from Boone Branch to Dam at Mulberry Beach was
14		reclassified from Class B to Class B HQW;
15	(15)	Boone Branch (Fork) [Index No. 11-38-32-12] and its named tributaries from source to Mulberry
16		Creek were reclassified from Class B to Class B HQW;
17	(16)	Brown Branch [Index No. 11-38-32-13] and Moore Branch [Index No. 11-38-32-14] were
18		reclassified from Class B to Class B HQW; and
19	(17)	Anderson Creek [Index No. 11-38-32-16] was reclassified from Class C to Class C HQW.
20	(n) The Schedu	le of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule
21	was amended e	ffective August 3, 1992 with the reclassification of all water supply waters (waters with a primary
22	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
23	defined in the re	vised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective
24	on August 3, 19	992. In some cases, streams with primary classifications other than WS were reclassified to a WS
25	classification du	te to their proximity and linkage to water supply waters. In other cases, waters were reclassified from
26	a WS classificat	tion to an alternate appropriate primary classification after being identified as downstream of a water
27	supply intake or	identified as not being used for water supply purposes.
28	(o) The Schedu	le of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule
29	was amended ef	ffective April 1, 1994 as follows:
30	(1)	Friday Lake (Index No. 11-125.5) from its source to Little Paw Creek was reclassified from Class
31		C to Class B; and
32	(2)	The Linville River [Index No. 12-29-(1)] from Grandmother Creek to Linville Falls was reclassified
33		from Class C Tr to Class B Tr.
34	(p) The Schedu	le of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule
35	was amended e	ffective July 1, 1995 with the reclassification of Clark Creek from a point 0.6 mile downstream of
36	Catawba Count	y SR 2014 to 0.4 mile upstream of Larkard Creek [Index No. 11-129-5-(4.5)], and Howards Creek

1	from its source to 0.7 mile upstream of Lincoln County State Road 1200 [Index No. 11-129-4], including associated				
2	tributaries from Class WS-IV to Classes C and WS-IV.				
3	(q) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule				
4	was amended effective September 1, 1996 as follows:				
5	(1)	North Fork Catawba River [Index No. 11-24-(1)] from Laurel Branch to Armstrong Creek from			
6		Class C Tr to Class B Tr; and			
7	(2)	Catawba River (Lake Hickory) from Rhodhiss dam to highway 321 [Index No. 11-(51)] from Class			
8		WS-IV CA to Class WS-IV B CA.			
9	(r) The Schedul	e of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule			
10	was amended ef	fective August 1, 1998 as follows:			
11	(1)	The primary classification for portions of South Fork Catawba River [Index No. 11-129-(0.5)] and			
12		Hoyle Creek [Index No. 11-129-15-(1)] was reclassified from Class WS-IV to Class WS-V;			
13	(2)	Mill Creek [Index No. 11-7] from its source to Swannanoa Creek, including all tributaries, from			
14		Class C Tr to Class Tr HQW;			
15	(3)	Toms Creek [Index Nos. 11-21-(1) and 11-21-(2)] from its source to Harris Creek, including all			
16		tributaries were reclassified from Class C Tr to Class Tr HQW; and			
17	(4)	Harris Creek to McDowell County SR 1434, including all tributaries were reclassified from Class			
18		C to Class HQW.			
19	(s) The Schedul	e of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule			
20	was amended ef	fective April 1, 1999 as follows:			
21	(1)	Portion of the Catawba River [Index Nos. 11-(27.5) and 11-(31)] from Class WS-IV B and WS-IV			
22		to Class WS-V B and WS-V;			
23	(2)	Armstrong Creek [Index Nos. 11-24-14-(1), 11-24-14-(13.5) and 11-24-14-(14)], and all tributaries			
24		from Classes WS-II Tr, WS-II, WS-II CA and C Tr to Classes C Tr HQW and C HQW;			
25	(3)	Lookout Shoals Lake from Oxford Dam to Island Creek [Index No. 11-(67)] from Class WS-V to			
26		Class WS-IV CA, from Island Creek to Elk Shoal Creek [Index No. 11-(70.5)] from Class WS-IV			
27		to Class WS-IV CA and from Elk Shoal Creek to a point one half mile upstream of Lookout Shoals			
28		Dam [Index No. 11-(72)] from Class WS-IV B to Class WS-IV B CA;			
29	(4)	The classifications of tributary streams that are within five miles and draining to the normal pool			
30		elevation of Lookout Shoals Lake (Protected Area) have been revised to Class WS-IV; and			
31	(5)	The classifications of tributary streams that are within one half mile and draining to the normal pool			
32		elevation of Lookout Shoals Lake (Critical Area) have been revised to Class WS-IV CA.			
33	(t) The Schedule	e of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule			
34	was amended A	ugust 1, 2000 with the reclassification of Little Grassy Creek (Index No. 11-29-2), including all			
35	tributaries, from	its source to the Linville River from Class C Tr to Class C Tr ORW.			
36	(u) The Schedul	e of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule			
37	was amended A	ugust 1, 2004 with the reclassification of a segment of three surface waters, more specifically Henry			

1	Fork [11-129-1	1-(1)], Jerry Branch [11-129-1-3-(1)], and He Creek [11-129-1-4-(1)], from source to a formerly used			
2	City of Morgan	nton Water Intake from Class WS-I ORW to Class WS-V ORW.			
3	(v) The Sched	(v) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule			
4	was amended May 1, 2007 with the reclassification of the Catawba River [Index No. 11-(31.5)] from a point 0.6 mile				
5	upstream of M	uddy Creek to a point 1.2 miles upstream of Canoe Creek from WS-IV to WS-IV Tr and Catawba River			
6	[Index No. 11-	(32.3)] from a point 1.2 miles upstream of Canoe Creek to a point 0.7 mile upstream of Canoe Creek			
7	(Morganton wa	ater supply intake) from WS-IV CA to WS-IV Tr CA. Named and unnamed tributaries to this portion			
8	of the Catawba	River are not classified as Trout. Between the last day of May and the first day of November the water			
9	quality standar	d for dissolved oxygen shall not be less than a daily average of 5.0 mg/l with a minimum instantaneous			
10	value of not les	ss than 4.0 mg/l.			
11	(w) The Sched	ule of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule			
12	was amended	September 1, 2010 with the reclassification of the portion of the Catawba River [Index No. 11-(1)],			
13	from its source	to the Left Prong Catawba River confluence, and its named tributaries, Chestnut Branch (Fork) [Index			
14	No. 11-2], Clo	ver Patch Branch [Index No. 11-3], Youngs Fork Creek [Index No. 11-4], Spring Branch [Index No.			
15	11-5], and Left	Prong Catawba River [Index No. 11-6] from Class C Tr to Class C Tr HQW.			
16	(x) The Sched	(x) The Schedule of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule			
17	was amended M	March 1, 2013 as follows:			
18	(1)	the portion of Maiden Creek [Index No. 11-129-5-7-2-(1)] from source to a point 0.7 mile upstream			
19		from backwaters of Maiden Reservoir, and its named tributary, Bee Branch [Index No. 11-129-5-7-			
20		2-2], from Class WS-II HQW to WS-V;			
21	(2)	the portion of Maiden Creek [Index No. 11-129-5-7-2-(2.5)] from a point 0.7 mile upstream from			
22		backwaters of Maiden Reservoir to dam at Maiden Reservoir from Class WS-II HQW CA to WS-			
23		V;			
24	(3)	the portion of Allen Creek [Index No. 11-129-5-7-2-4-(1)] from source to a point 0.7 mile upstream			
25		of Maiden water supply intake from Class WS-II HQW to WS-V; and			
26	(4)	the portion of Allen Creek [Index No. 11-129-5-7-2-4-(2)] from a point 0.7 mile upstream of Maiden			
27		water supply intake to Maiden water supply intake from Class WS-II HQW CA to WS-V.			
28	(y) The Sched	ule of Classifications and Water Quality Standards for the Catawba River Basin Classification Schedule			
29	was amended J	July 1, 2017 as follows:			
30	(1)	a portion of the Catawba River [Index No. 11-(23)], including tributaries, from Bridgewater Dam			
31		to North Fork Catawba River from Class WS-V & B to Class WS-IV CA & B, and a portion of the			
32		Catawba River [part of Index No. 11-(8)], including tributaries, from North Fork Catawba River to			
33		a point 0.75 0.7 mile downstream of SR 1501 from Class C to Class WS-IV CA. The CA extends			
34		0.5 mile from and draining to the normal pool elevation of Lake James.			
35	(2)	a portion of the Catawba River [part of Index No. 11-(8)], including tributaries, from a point $\frac{0.75}{0.75}$			
36		0.7 mile downstream of SR 1501 to a point 0.21 0.2 mile upstream of 1-221 SR 1221 from Class C			

1		to Class WS-IV. The PA extends 5.0 miles from and draining to the normal pool elevation of Lake
2		James.
3		
4	History Note:	Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);
5		Eff. February 1, 1976;
6		Amended Eff. July 1, 2017; March 1, 2013; December 1, 2010; September 1, 2010; May 1, 2007;
7		August 1, 2004; August 1, 2000; April 1, 1999; August 1, 1998; September 1, 1996; July 1, 1995;
8		April 1, 1994; August 3, 1992; August 1, 1990. <u>1990;</u>
9		<u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0309

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Please consider beginning (a)(2) with "the following offices of the North Carolina..."

For consistency purposes, in (b), delete "Streams. Such" so that it reads "Unnamed Streams. Such streams entering…" I make this suggestion because you don't have this type of introductory language anywhere else in this Rule.

In (c), please consider deleting the repetitive dates. I note that this was done to Rule .0306 back in 2014 and other Rules do not have duplicates. In this Rule, it appears as though (c)(5) and (6); (9) through (12); and (14) through (20) are repetitive.

In (i), line 11, please move the comma found after "rules" to behind "(... .0300)"

15A NCAC 02B .0309 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

3 15A NCAC 02B .0309 **YADKIN-PEE DEE RIVER BASIN** 4 (a) The Yadkin Pee Dee River Schedule of Classifications and Water Quality Standards may be inspected at the 5 following places: Classifications assigned to the waters within the Yadkin-Pee Dee River Basin are set forth in the 6 Yadkin River Basin Classification Schedule, which may be inspected at the following places: 7 the Internet at http://h2o.enr.state.ne.us/csu/; http://portal.ncdenr.org/web/wq/ps/csu/classifications; (1)8 and 9 (2)the North Carolina Department of Environment and Natural Resources: Environmental Quality: 10 (A) Mooresville Regional Office 11 610 East Center Avenue, Suite 301 12 Mooresville, North Carolina Carolina; 13 (B) Winston-Salem Regional Office 14 585 Waughtown Street 450 West Hanes Mill Road 15 Winston-Salem, North Carolina Carolina; 16 (C) Fayetteville Regional Office Systel Building 17 18 225 Green Street 19 Systel Building Suite 714 20 Fayetteville, North Carolina Carolina; 21 (D) Asheville Regional Office 22 2090 US Highway 70 23 Swannanoa, North Carolina Carolina; and 24 (E) Division of Water Quality Resources Central Office 25 26 512 North Salisbury Street 27 Raleigh, North Carolina. 28 (b) Unnamed Streams. Such streams entering Virginia are classified "C," and such streams entering South Carolina 29 are classified "C". 30 (c) The Yadkin-Pee Dee River Basin Schedule of Classifications and Water Quality Standards Classification Schedule 31 was amended effective: 32 February 12, 1979; (1)33 (2)March 1, 1983; 34 August 1, 1985; (3) 35 (4)February 1, 1986; 36 October 1, 1988; (5) 37 (6)March 1, 1989;

1	(7)	January 1, 1990;
2	(8)	August 1, 1990;
3	(9)	January 1, 1992;
4	(10)	April 1, 1992;
5	(11)	August 3, 1992;
6	(12)	December 1, 1992;
7	(13)	April 1, 1993;
8	(14)	September 1, 1994;
9	(15)	August 1, 1995;
10	(16)	August 1, 1998;
11	(17)	April 1, 1999;
12	(18)	July 1, 2006;
13	(19)	September 1, 2006;
14	(20)	November 1, 2007.
15	(d) The Schedu	ale of Classifications and Water Quality Standard for the Yadkin-Pee Dee River Basin Classification
16	<u>Schedule</u> has be	en was amended effective October 1, 1988 as follows:
17	(1)	Mitchell River [Index No. 12-62-(1)] from source to mouth of Christian Creek (North Fork Mitchell
18		River) including all tributaries has been reclassified from Class B Tr to Class B Tr ORW.
19	(2)	Mitchell River [Index No. 12-62-(7)] from mouth of Christian Creek (North Fork Mitchell River)
20		to Surry County SR 1315 including all tributaries has been classified from Class C Tr to C Tr ORW,
21		except Christian Creek and Robertson Creek which will be reclassified from Class B Tr to Class B
22		Tr ORW.
23	(3)	Mitchell River [Index No. 12-62-(12)] from Surry County SR 1315 to mouth of South Fork Mitchell
24		River including all tributaries from Class C to Class C ORW.
25	(e) The Schedu	the of Classifications and Water Quality Standard for the Yadkin-Pee Dee River Basin Classification
26	<u>Schedule</u> was a	mended effective March 1, 1989 as follows: <u>Elk Creek [Index Nos. 12-24-(1) and 12-24-(10)] and all</u>
27	tributary waters	were reclassified from Class B-trout, Class C-trout and Class B to Class B-trout ORW, Class C-trout
28	ORW and Class	BORW.
29	(1)	Elk Creek [Index Nos. 12-24 (1) and 12-24 (10)] and all tributary waters were reclassified from
30		<mark>Class B trout, Class C trout and Class B to Class B trout ORW, Class C trout ORW and Class B</mark>
31		<mark>ORW.</mark> (f) The Schedule of Classifications and Water Quality Standard for the Yadkin-Pee Dee River
32		Basin Classification Schedule was amended effective January 1, 1990 as follows: Barnes Creek
33		(Index No. 13-2-18) was reclassified from Class C to Class C ORW.
34	(g) The Schedu	ale of Classifications and Water Quality Standard for the Yadkin-Pee Dee River Basin Classification
35	<u>Schedule</u> has be	en was amended effective January 1, 1992 as follows:
36	(1)	Little River [Index Nos. 13-25-(10) and 13-25-(19)] from Suggs Creek to Densons Creek has been
37		reclassified from Classes WS-III and C to Classes WS-III HQW and C HQW.

1	(2)	Densons Creek [Index No. 13-25-20-(1)] from its source to Troy's Water Supply Intake including
2		all tributaries has been reclassified from Class WS-III to Class WS-III HQW.
3	(3)	Bridgers Creek (Index No. 13-25-24) from its source to the Little River has been reclassified from
4		Class C to Class C HQW.
5	(h) The Sched	ule of Classifications and Water Quality Standard for the Yadkin-Pee Dee River Basin Classification
6	<u>Schedule</u> was a	mended effective April 1, 1992 with the reclassification of the North Prong South Fork Mitchell River
7	from Class C to	o Class C Trout.
8	(i) The Schedu	ale of Classifications and Water Quality Standard for the Yadkin-Pee Dee River Basin Classification
9	<u>Schedule</u> was a	amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a
10	primary classif	ication of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or
11	WS-V as define	ed in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became
12	effective on Au	igust 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a
13	WS classificati	on due to their proximity and linkage to water supply waters. In other cases, waters were reclassified
14	from a WS clas	ssification to an alternate appropriate primary classification after being identified as downstream of a
15	water supply in	take or identified as not being used for water supply purposes.
16	(j) The Schedu	ale of Classifications and Water Quality Standard for the Yadkin-Pee Dee River Basin Classification
17	<u>Schedule</u> has b	een was amended effective December 1, 1992 as follows:
18	(1)	Pike Creek (Index No. 12-46-1-2) was reclassified from Class C Tr to Class C Tr HQW;
19	(2)	Basin Creek (Index No. 12-46-2-2) was reclassified from Class C Tr to Class C Tr ORW;
20	(3)	Bullhead Creek (Index No. 12-46-4-2) was reclassified from Class C Tr to Class C Tr ORW;
21	(4)	Rich Mountain Creek (Index No. 12-46-4-2-2) was reclassified from Class Tr to Class C Tr ORW;
22		and
23	(5)	Widows Creek (Index No. 12-46-4-4) was reclassified from Class C Tr HQW to Class C Tr ORW.
24	(k) The Sched	ule of Classifications and Water Quality Standard for the Yadkin-Pee Dee River Basin <u>Classification</u>
25	<u>Schedule</u> has b	een was amended effective September 1, 1994 as follows:
26	(1)	Lanes Creek [Index Nos. 13-17-40-(1) and 13-17-40-(10.5)] from its source to the Marshville water
27		supply dam including tributaries was reclassified from Classes WS-II and WS-II CA to Class WS-
28		V.
29	(2)	The South Yadkin River [Index Nos. 12-108-(9.7) and 12-108-(15.5)] from Iredell County SR 1892
30		to a point 0.7 mile upstream of the mouth of Hunting Creek including associated tributaries was
31		reclassified from Classes WS-V, C and WS-IV to Classes WS-V, WS-IV, C and WS-IV CA.
32	(3)	The Yadkin River [Index Nos. 12-(53) and 12-(71)] from a point 0.3 mile upstream of the mouth of
33		Elkin Creek (River) to the Town of King water supply intake including associated tributaries was
34		reclassified from Classes C and WS-IV to Classes WS-IV and WS-IV CA.
35	(4)	The Yadkin River [Index Nos. 12-(80.5), 12-(81.5) and 12-(84.5)] from the Town of King water
36		supply intake to the Davie County water supply intake reclassified from Classes C, B, WS-IV and
37		WS-V to Classes WS-IV, WS-IV B and WS-IV CA.

- 1 (1) The Schedule of Classifications and Water Quality Standard for the Yadkin-Pee Dee River Basin Classification
- 2 Schedule has been was amended effective August 1, 1995 as follows: Bear Creek [Index Nos. 12-108-18-(3), 12-108-
- 3 18-(3.3)], Little Bear Creek (Index No. 12-108-18-2), and Blue Branch (Index No. 12-108-18-2-1) were reclassified
- 4 from WS-II and WS-II CA (Critical Area) to C and WS-IV.
- 5 (m) The Schedule of Classifications and Water Quality Standard for the Yadkin-Pee Dee River Basin Classification
- 6 <u>Schedule</u> was amended effective August 1, 1998 with the revision to the primary classification for portions of the
- 7 Yadkin River [Index No. 12-(45)] from Class WS-IV to WS-V, Yadkin River [Index No. 12-(67.5)] from Class WS-
- 8 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
- 9 River [Index No. 12-108-(12.5)] from Class WS-IV to Class WS-V, and South Yadkin River [Index Nos. 12-108-
- 10 (19.5) and 12-108-(22)] from Class WS-IV to Class C.
- 11 (n) The Schedule of Classifications and Water Quality Standard for the Yadkin-Pee Dee River Basin Classification
- 12 <u>Schedule</u> was amended effective April 1, 1999 with the reclassification of a portion of the Yadkin River [Index No.
- 13 12-(80.5)] from WS-IV CA to WS-IV. A portion of the Yadkin River 0.5 mile upstream of Bashavia Creek was
- 14 reclassified from WS-IV to WS-IV CA. Bashavia Creek [Index Nos. 12-81-(0.5) and 12-81-(2)] was reclassified from
- 15 WS-IV and WS-IV CA to Class C. Tributaries to Bashavia Creek were also reclassified to Class C. Portions of the
- 16 Yadkin River [Index Nos. 12-(25.5) and 12-(27)] were reclassified from WS-IV to Class C and from WS-IV & B to
- 17 Class B. Tributaries were reclassed from Class WS-IV to Class C. Supplemental classifications were not changed.
- 18 (o) The Schedule of Classifications and Water Quality Standard for the Yadkin-Pee Dee River Basin Classification
- 19 <u>Schedule</u> was amended effective July 1, 2006 with the reclassification of a portion of the Uwharrie River. More
- 20 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
- 21 Class WS-IV CA, WS-IV, and C, to Class WS-IV B CA, WS-IV B, and B, respectively.
- 22 (p) The Schedule of Classifications and Water Quality Standard for the Yadkin-Pee Dee River Basin Classification
- 23 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
- 25 of Elkin proposed water supply intake from C to WS-IV CA. The Town of Elkin proposed water supply intake is to
- 26 be placed on the Yadkin River at a point directly above the mouth of Elkin Creek.
- 27 (q) The Schedule of Classifications and Water Quality Standard for the Yadkin-Pee Dee River Basin Classification
- 28 <u>Schedule</u> was amended effective November 1, 2007 with the reclassifications as listed below, and the North Carolina
- 29 Division of Water <u>Quality</u> <u>Resources</u> maintains a Geographic Information Systems data layer of these UWLs.
- 30 (1) Black Ankle Bog near Suggs Creek [Index No. 13-25-12] was reclassified to Class WL UWL as
 31 defined in 15A NCAC 02B .0101 UWL.
- 32 (2) Pilot Mountain Floodplain Pool near Horne Creek [Index No. 12-75] was reclassified to Class WL
 33 UWL as defined in 15A NCAC 02B .0101 UWL.
- 34
- 35 History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);
 36 Eff. February 1, 1976;

1	Amended Eff. November 1, 2007; September 1, 2006; July 1, 2006; April 1, 1999; August 1, 1998;
2	August 1, 1995; September 1, 1994; April 1, 1993; December 1, 1992. <u>1992;</u>
3	<u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0310

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Please consider beginning (a)(2) with "the following offices of the North Carolina..."

For consistency purposes, in (b), delete "Streams. Such" so that it reads "Unnamed Streams. Such streams entering…" I make this suggestion because you don't have this type of introductory language anywhere else in this Rule.

In (c), please consider deleting the repetitive dates. I note that this was done to Rule .0306 back in 2014 and other Rules do not have duplicates. In this Rule, the repetitive dates are in (c)(7), (9), (10), (11), and (12.)

In (e), line 7, please move the comma found after "rules" to behind "(... .0300)"

15A NCAC 02B .0310 is readopted as published in 32:22 NCR 2411-2493 as follows:

2		
3	15A NCAC 02B	3.0310 LUMBER RIVER BASIN
4	(a) The Lumbe	er River Basin Schedule of Classifications and Water Quality Standards may be inspected at the
5	following places	See Classifications assigned to the waters within the Lumber River Basin are set forth in the Lumber
6	River Basin Clas	ssification Schedule, which may be inspected at the following places:
7	(1)	the Internet at http://h2o.enr.state.nc.us/csu/; http://portal.ncdenr.org/web/wq/ps/csu/classifications:
8		and
9	(2)	the North Carolina Department of Environment and Natural Resources: Environmental Quality:
10		(A) Fayetteville Regional Office
11		225 Green Street
12		Systel Building Suite 714
13		Fayetteville, North Carolina Carolina;
14		(B) Wilmington Regional Office
15		127 Cardinal Drive Extension
16		Wilmington, North Carolina Carolina; and
17		(C) Division of Water <u>Quality</u> <u>Resources</u>
18		Central Office
19		512 North Salisbury Street
20		Raleigh, North Carolina.
21	(b) Unnamed St	treams. Such streams entering South Carolina are classified "C Sw".
22	(c) The Lumber	r River Basin Schedule of Classification and Water Quality Standards Classification Schedule was
23	amended effectiv	ve:
24	(1)	March 1, 1977;
25	(2)	December 13, 1979;
26	(3)	September 14, 1980;
27	(4)	April 12, 1981;
28	(5)	April 1, 1982;
29	(6)	February 1, 1986;
30	(7)	July 1, 1990;
31	(8)	August 1, 1990;
32	(9)	August 3, 1992;
33	(10)	September 1, 1996;
34	(11)	August 1, 2000;
35	(12)	November 1, 2007.
35	(12)	November 1, 2007.

- (d) The Schedule of Classifications and Water Quality Standards for the Lumber River Basin <u>Classification Schedule</u>
 was amended effective July 1, 1990 by the reclassification of Naked Creek (Index No. 14-2-6) from source to
- 3 Drowning Creek including all tributaries from Class WS-III to Class WS-III ORW.
- 4 (e) The Schedule of Classifications and Water Quality Standards for the Lumber River Basin Classification Schedule
- 5 was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary
- 6 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
- 7 defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective
- 8 on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS
- 9 classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from
- 10 a WS classification to an alternate appropriate primary classification after being identified as downstream of a water
- 11 supply intake or identified as not being used for water supply purposes.
- 12 (f) The Schedule of Classifications and Water Quality Standards for the Lumber River Basin Classification Schedule
- 13 was amended effective September 1, 1996 by the reclassification of the Lumber River from 2.0 miles upstream of
- 14 highway 401 to a point 0.5 mile upstream of Powell Branch [Index Nos. 14-(3), 14-(4), 14-(4.5), 14-(7) and 14-(10.3)]
- 15 from Classes WS-IV Sw HQW, WS-IV Sw HQW CA and C Sw HQW to Classes WS-IV B Sw HQW, WS-IV B Sw
- 16 HQW CA and B Sw HQW.
- 17 (g) The Schedule of Classifications and Water Quality Standards for the Lumber River Basin Classification Schedule
- 18 was amended effective August 1, 2000 with the reclassification of Lake Waccamaw [Index No. 15-2] from Class B
- 19 Sw to Class B Sw ORW.
 - 20 (h) The Schedule of Classifications and Water Quality Standards for the Lumber River Basin Classification Schedule
 - was amended effective November 1, 2007 with the reclassifications listed below, and the North Carolina Division of
 Water <u>Quality Resources</u> maintains a Geographic Information Systems data layer of these UWLs:
 - (1) Waccamaw Natural Lake Shoreline near Lake Waccamaw [Index No. 15-2] was reclassified to
 Class WL UWL as defined in 15A NCAC 02B .0101. UWL.
 - 25 (2) Green Swamp Small Depression Pond near Royal Oak Swamp [Index No. 15-25-1-12] was
 26 reclassified to Class WL UWL as defined in 15A NCAC 02B .0101. <u>UWL.</u>
 - 27 (3) Old Dock Savanna near Gum Swamp Run [Index No. 15-6] was reclassified to Class WL UWL as
 28 defined in 15A NCAC 02B .0101. UWL.
 - 29 (4) Myrtle Head Savanna near Mill Branch [Index No. 15-7-7] was reclassified to Class WL UWL as
 30 defined in 15A NCAC 02B .0101. <u>UWL.</u>
 - 31 (5) Goosepond Bay near Big Marsh Swamp [Index No. 14-22-2] was reclassified to Class WL UWL as
 32 defined in 15A NCAC 02B .0101. UWL.
 - 33 (6) Antioch Bay near Raft Swamp [Index No. 14-10-(1)] was reclassified to Class WL UWL as defined
 34 in 15A NCAC 02B .0101. UWL.
 - 35 (7) Pretty Pond Bay near Big Marsh Swamp [Index No. 14-22-2] was reclassified to Class WL UWL
 36 as defined in 15A NCAC 02B .0101. UWL.

1	(8)	Dunahoe Bay near Big Marsh Swamp [Index No. 14-22-2] was reclassified to Class WL UWL as
2		defined in 15A NCAC 02B .0101. UWL.
3	(9)	Hamby's Bay near Raft Swamp [Index No. 14-10-(1)] was reclassified to Class WL UWL as defined
4		in 15A NCAC 02B .0101. UWL.
5	(10)	Oak Savanna Bay near Smith Branch [Index No. 14-10-3] was reclassified to Class WL UWL as
6		defined in 15A NCAC 02B .0101. UWL.
7	(11)	Big Island Savanna near Driving Creek [Index No. 15-7-1] was reclassified to Class WL UWL as
8		defined in 15A NCAC 02B .0101. UWL.
9		
10	History Note:	Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);
11		Eff. February 1, 1976;
12		Amended Eff. November 1, 2007; August 1, 2000; September 1, 1996; August 3, 1992; August 1,
13		1990; July 1, 1990; February 1, 1986. <u>1986;</u>
14		<u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0311

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Please consider beginning (a)(2) with "<u>the following offices of the</u> North Carolina..."

In (g), line 7, please move the comma found after "rules" to behind "(... .0300)"

Also in (g), there is a random strike of a comma in between .0100 and 0200 on line 8. Please delete this.

15A NCAC 02B .0311 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

2

3 15A NCAC 02B .0311 CAPE FEAR RIVER BASIN

4 (a) Effective February 1, 1976, the adopted classifications Classifications assigned to the waters within the Cape Fear 5 River Basin are set forth in the Cape Fear River Basin Schedule of Classifications and Water Quality Standards, 6 Classification Schedule, which may be inspected at the following places: 7 (1)the Internet http://portal.ncdenr.org/web/wq/ps/csu/rules; at 8 http://portal.ncdenr.org/web/wq/ps/csu/classifications; and 9 the North Carolina Department of Environment and Natural Resources: Environmental Quality: (2)10 (A) Winston-Salem Regional Office 11 585 Waughtown Street 450 West Hanes Mill Road 12 Winston-Salem, North Carolina Carolina; 13 (B) Fayetteville Regional Office 14 225 Green Street 15 Systel Building Suite 714 16 Fayetteville, North Carolina Carolina; 17 (C) **Raleigh Regional Office** 18 3800 Barrett Drive 19 Raleigh, North Carolina Carolina; 20 (D) Washington Regional Office 21 943 Washington Square Mall 22 Washington, North Carolina Carolina; 23 (E) Wilmington Regional Office 24 127 Cardinal Drive Extension 25 Wilmington, North Carolina Carolina; and 26 (F) Division of Water Quality Resources 27 Central Office 28 512 North Salisbury Street 29 Raleigh, North Carolina. 30 (b) The Cape Fear River Basin Schedule of Classification and Water Quality Standards Classification Schedule was 31 amended effective: 32 (1)March 1, 1977; 33 (2)December 13, 1979; 34 December 14, 1980; (3) 35 (4)August 9, 1981; 36 (5) April 1, 1982; 37 (6)December 1, 1983;

1	(7)	January 1, 1985;
2	(8)	August 1, 1985;
3	(9)	December 1, 1985;
4	(10)	February 1, 1986;
5	(11)	July 1, 1987;
6	(12)	October 1, 1987;
7	(13)	March 1, 1988;
8	(14)	August 1, 1990.
9	(c) The Sched	lule of Classifications and Water Quality Standards for the Cape Fear River Basin Classification
10	Schedule was a	mended effective June 1, 1988 as follows:
11	(1)	Cane Creek [Index No. 16-21-(1)] from source to a point 0.5 mile north of N.C. Hwy. 54 (Cane
12		Reservoir Dam) including the Cane Creek Reservoir and all tributaries has been reclassified from
13		Class WS-III to WS-I.
14	(2)	Morgan Creek [Index No. 16-41-1-(1)] to the University Lake dam including University Lake and
15		all tributaries has been reclassified from Class WS-III to WS-I.
16	(d) The Sched	lule of Classifications and Water Quality Standards for the Cape Fear River Basin Classification
17	<u>Schedule</u> was a	amended effective July 1, 1988 by the reclassification of Crane Creek (Crains Creek) [Index No.
18	18-23-16-(1)] fi	rom source to mouth of Beaver Creek including all tributaries from C to WS-III.
19	(e) The Sched	lule of Classifications and Water Quality Standards for the Cape Fear River Basin Classification
20	<u>Schedule</u> was an	mended effective January 1, 1990 as follows:
21	(1)	Intracoastal Waterway (Index No. 18-87) from southern edge of White Oak River Basin to western
22		end of Permuda Island (a line from Morris Landing to Atlantic Ocean), from the eastern mouth of
23		Old Topsail Creek to the southwestern shore of Howe Creek and from the southwest mouth of Shinn
24		Creek to channel marker No. 153 including all tributaries except the King Creek Restricted Area,
25		Hardison Creek, Old Topsail Creek, Mill Creek, Futch Creek and Pages Creek were reclassified
26		from Class SA to Class SA ORW.
27	(2)	Topsail Sound and Middle Sound ORW Area which includes all waters between the Barrier Islands
28		and the Intracoastal Waterway located between a line running from the western most shore of Mason
29		Inlet to the southwestern shore of Howe Creek and a line running from the western shore of New
30		Topsail Inlet to the eastern mouth of Old Topsail Creek was reclassified from Class SA to Class SA
31		ORW.
32	(3)	Masonboro Sound ORW Area which includes all waters between the Barrier Islands and the
33		mainland from a line running from the southwest mouth of Shinn Creek at the Intracoastal Waterway
34		to the southern shore of Masonboro Inlet and a line running from the Intracoastal Waterway Channel
35		marker No. 153 to the southside of the Carolina Beach Inlet was reclassified from Class SA to Class
36		SA ORW.

(f) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin Classification 1 2 Schedule was amended effective January 1, 1990 as follows: Big Alamance Creek [Index No. 16-19-(1)] from source 3 to Lake Mackintosh Dam including all tributaries has been reclassified from Class WS-III NSW to Class WS-II NSW. 4 (g) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin Classification 5 Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a 6 primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-IV or 7 WS-V as defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became 8 effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a 9 WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified 10 from a WS classification to an alternate appropriate primary classification after being identified as downstream of a 11 water supply intake or identified as not being used for water supply purposes. 12 (h) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin Classification 13 Schedule was amended effective June 1, 1994 as follows: 14 (1)The Black River from its source to the Cape Fear River [Index Nos. 18-68-(0.5), 18-68-(3.5) and 15 18-65-(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW. 16 (2)The South River from Big Swamp to the Black River [Index Nos. 18-68-12-(0.5) and 18-68-17 12(11.5)] was reclassified from Classes C Sw and C Sw HQW to Class C Sw ORW. 18 (3) Six Runs Creek from Quewhiffle Swamp to the Black River [Index No. 18-68-2] was reclassified 19 from Class C Sw to Class C Sw ORW. 20 (i) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin Classification Schedule 21 was amended effective September 1, 1994 with the reclassification of the Deep River [Index No. 17-(36.5)] from the 22 Town of Gulf-Goldston water supply intake to US highway 421 including associated tributaries from Class C to 23 Classes C, WS-IV and WS-IV CA. 24 (i) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin Classification Schedule 25 was amended effective August 1, 1998 with the revision to the primary classification for portions of the Deep River [Index No. 17-(28.5)] from Class WS-IV to Class WS-V, Deep River [Index No. 17-(41.5)] from Class WS-IV to 26 27 Class C, and the Cape Fear River [Index 18-(10.5)] from Class WS-IV to Class WS-V. 28 (k) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin Classification 29 Schedule was amended effective April 1, 1999 with the reclassification of Buckhorn Creek (Harris Lake)[Index No. 30 18-7-(3)] from the backwaters of Harris Lake to the Dam at Harris Lake from Class C to Class WS-V. 31 (1) The Schedule of Classifications and Water Quality Standards for the Cape Fear River Basin Classification Schedule 32 was amended effective April 1, 1999 with the reclassification of the Deep River [Index No. 17-(4)] from the dam at 33 Oakdale-Cotton Mills, Inc. to the dam at Randleman Reservoir (located 1.6 mile upstream of U.S. Hwy 220 Business), 34 and including tributaries from Class C and Class B to Class WS-IV and Class WS-IV & B. Streams within the 35 Randleman Reservoir Critical Area have been reclassified to WS-IV CA. The Critical Area for a WS-IV reservoir is 36 defined as 0.5 mile and draining to the normal pool elevation of the reservoir. All waters within the Randleman

1	Reservoir Water Supply Watershed are within a designated Critical Water Supply Watershed and are subject to a		
2	special manager	ment strategy specified in 15A NCAC 02B .0248. Rule .0248 of this Subchapter.	
3	(m) The Sche	dule of Classifications and Water Quality Standards for the Cape Fear River Basin Classification	
4	<u>Schedule</u> was a	mended effective August 1, 2002 as follows:	
5	(1)	Mill Creek [Index Nos. 18-23-11-(1), 18-23-11-(2), 18-23-11-3, 18-23-11-(5)] from its source to	
6		the Little River, including all tributaries was reclassified from Class WS-III NSW and Class WS-III	
7		B NSW to Class WS-III NSW HQW@ and Class WS-III B NSW HQW@.	
8	(2)	McDeed's Creek [Index Nos. 18-23-11-4, 18-23-11-4-1] from its source to Mill Creek, including all	
9		tributaries was reclassified from Class WS III NSW and Class WS-III B NSW to Class WS-III NSW	
10		HQW@ and Class WS-III B NSW HQW@.	
11	The "@" symbo	ol as used in this Paragraph means that if the governing municipality has deemed that a development	
12	is covered unde	er a "5/70 provision" as described in Rule 15A NCAC 02B .0215(3)(b)(i)(E)(Fresh Surface Water	
13	Quality Standar	ds for Class WS III Waters), Rule .0215(3)(b)(i)(E) of this Subchapter, then that development is not	
14	subject to the st	ormwater requirements as described in rule 15A NCAC 02H .1006 (Stormwater Requirements: High	
15	Quality Waters	+ <u>15A NCAC 02H .1006.</u>	
16	(n) The Sched	lule of Classifications and Water Quality Standards for the Cape Fear River Basin Classification	
17	<u>Schedule</u> was a	mended effective November 1, 2004 as follows:	
18	(1)	the portion of Rocky River [Index Number 17-43-(1)] from a point 0.3 mile upstream of Town of	
19		Siler City upper reservoir dam to a point 0.3 mile downstream of Lacy Creek from WS-III to WS-	
20		III CA.	
21	(2)	the portion of Rocky River [Index Number 17-43-(8)] from dam at lower water supply reservoir for	
22		Town of Siler City to a point 65 feet below dam (site of proposed dam) from C to WS-III CA.	
23	(3)	the portion of Mud Lick Creek (Index No. 17-43-6) from a point 0.4 mile upstream of Chatham	
24		County SR 1355 to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.	
25	(4)	the portion of Lacy Creek (17-43-7) from a point 0.6 mile downstream of Chatham County SR 1362	
26		to Town of Siler City lower water supply reservoir from WS-III to WS-III CA.	
27	(o) The Sched	lule of Classifications and Water Quality Standards for the Cape Fear River Basin Classification	
28	<u>Schedule</u> was a	mended effective November 1, 2007 with the reclassifications listed below, and the North Carolina	
29	Division of Wa	ter Quality Resources maintains a Geographic Information Systems data layer of these UWLs.	
30	(1)	Military Ocean Terminal Sunny Point Pools, all on the eastern shore of the Cape Fear River [Index	
31		No. 18-(71)] were reclassified to Class WL UWL as defined in 15A NCAC 02B .0101. UWL.	
32	(2)	Salters Lake Bay near Salters Lake [Index No. 18-44-4] was reclassified to Class WL UWL as	
33		defined in 15A NCAC 02B .0101. UWL.	
34	(3)	Jones Lake Bay near Jones Lake [Index No. 18-46-7-1] was reclassified to Class WL UWL as	
35		defined in 15A NCAC 02B .0101. UWL.	
36	(4)	Weymouth Woods Sandhill Seep near Mill Creek [18-23-11-(1)] was reclassified to Class UWL as	
37		defined in 15A NCAC 02B .0101. UWL.	

1	(5)	Fly Trap Savanna near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL as	
2		defined in 15A NCAC 02B .0101. UWL.	
3	(6)	Lily Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL as defined	
4		in 15A NCAC 02B .0101. UWL.	
5	(7)	Grassy Pond near Cape Fear River [Index No. 18-(71)] was reclassified to Class WL UWL as	
6		defined in 15A NCAC 02B .0101. UWL.	
7	(8)	The Neck Savanna near Sandy Run Swamp [Index No. 18-74-33-2] was reclassified to Class WL	
8		UWL as defined in 15A NCAC 02B .0101. UWL.	
9	(9)	Bower's Bog near Mill Creek [Index No. 18-23-11-(1)] was reclassified to Class WL UWL as	
10		defined in 15A NCAC 02B .0101. UWL.	
11	(10)	Bushy Lake near Turnbull Creek [Index No. 18-46] was reclassified to Class WL UWL as defined	
12		in 15A NCAC 02B .0101. UWL.	
13	(p) The Schee	lule of Classifications and Water Quality Standards for the Cape Fear River Basin Classification	
14	<u>Schedule</u> was a	mended effective January 1, 2009 as follows:	
15	(1)	the portion of Cape Fear River [Index No. 18-(26)] (including tributaries) from Smithfield Packing	
16		Company's intake, located approximately 2 miles upstream of County Road 1316, to a point 0.5	
17		miles upstream of Smithfield Packing Company's intake from Class C to Class WS-IV CA.	
18	(2)	the portion of Cape Fear River [Index No.18-(26)] (including tributaries) from a point 0.5 miles	
19		upstream of Smithfield Packing Company's intake to a point 1 mile upstream of Grays Creek from	
20		Class C to Class WS-IV.	
21	(q) The Sched	lule of Classifications and Water Quality Standards for the Cape Fear River Basin Classification	
22	<u>Schedule</u> was a	mended effective August 11, 2009 with the reclassification of all Class C NSW waters and all Class B	
23	NSW waters up	stream of the dam at B. Everett Jordan Reservoir from Class C NSW and Class B NSW to Class WS-	
24	V NSW and Cl	ass WS-V & B NSW, respectively. All waters within the B. Everett Jordan Reservoir Watershed are	
25	within a design	ated Critical Water Supply Watershed and are subject to a special management strategy specified in	
26	15A NCAC 021	B.0262 through .0273. Rules .0262 through .0273 of this Subchapter.	
27	(r) The Sched	ule of Classifications and Water Quality Standards for the Cape Fear River Basin Classification	
28	Schedule was a	mended effective September 1, 2009 with the reclassification of a portion of the Haw River [Index No.	
29	16-(28.5)] from	the Town of Pittsboro water supply intake, which is located approximately 0.15 mile west of U.S.	
30		nt 0.5 mile upstream of the Town of Pittsboro water supply intake from Class WS-IV to Class WS-IV	
31	CA.		
32		ule of Classifications and Water Quality Standards for the Cape Fear River Basin Classification	
33		mended effective March 1, 2012 with the reclassification of the portion of the Haw River [Index No.	
34		e City of Greensboro's intake, located approximately 650 feet upstream of Guilford County 2712, to a	
35	. / -	upstream of the intake from Class WS-V NSW to Class WS-IV CA NSW, and the portion of the Haw	
36	River [Index No. 16-(1)] from a point 0.5 miles upstream of the intake to a point 0.6 miles downstream of U.S. Route		
37	-	WS-V NSW to Class WS-IV NSW.	
51	2, nom cluss		

1	(t) The Schedule	e of Classifications and Water Quality Standards for the Cape Fear River Basin Classification Schedule
2	was amended eff	fective June 30, 2017 with the reclassification of a section of 18-(71) from upstream mouth of Toomers
3	Creek to a line a	cross the river between Lilliput Creek and Snows Cut from Class SC to Class SC Sw. A site-specific
4	management stra	ategy is outlined in 15A NCAC 02B .0227.
5	(<u>u) The Cape F</u>	ear River Basin Classification Schedule was amended effective September 1, [2018] 2019 with the
6	reclassification	of a portion of Sandy Creek [Index No. 17-16-(1)] (including tributaries) from a point 0.4 mile
7	upstream of SR-	2481 to a point 0.6 mile upstream of N.C. Hwy 22 from WS-III to WS-III CA. The reclassification
8	resulted in an up	dated representation of the water supply watershed for the Sandy Creek reservoir.
9		
10	History Note:	Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);
11		Eff. February 1, 1976;
12		Amended Eff. June 30, 2017; March 1, 2012; September 1, 2009; August 11, 2009; January 1, 2009;
13		November 1, 2007; November 1, 2004; August 1, 2002; April 1, 1999; August 1, 1998; September
14		1, 1994; June 1, 1994; August 3, 1992; August 1, 1990. <u>1990;</u>
15		<u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0312

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Please consider beginning (a)(2) with "the following offices of the North Carolina..."

For consistency purposes, in (b), delete the corresponding paragraphs (e,g, "see paragraph (c)") since you've not done this in the majority of your other similar rules and have instead deleted the duplicate information.

In (c), please consider deleting the repetitive dates. Here all dates are addressed elsewhere.

In (e), line 7, please move the comma found after "rules" to behind "(... .0300)"
15A NCAC 02B .0312 is readopted as published in 32:22 NCR 2411-2493 as follows:

_						
3	15A NCAC 02	B .0312	WHITE OAK R	IVER BASIN		
4	(a) The White	Oak Riv	ver Basin Schedule o	of Classifications an	d Water Quality	Standards may be inspected in the
5	following place	es:Effecti	ve February 1, 1976,	, adopted classificati	ons <u>Classificatio</u>	ons assigned to the waters within the
6	White Oak Riv	er Basin	are set forth in the V	White Oak River Bas	in Classificatior	Schedule, which may be inspected
7	in the following	g places:				
8	(1)	the	internet	Internet	at	http://h2o.enr.state.nc.us/csu/;
9		http://	portal.ncdenr.org/we	b/wq/ps/csu/classifie	cations <u>;</u> and	
10	(2)	the No	orth Carolina Departi	ment of Environmen	t and Natural Re	esources: Environmental Quality:
11		(A)	Washington Regi	onal Office		
12			943 Washington S	Square Mall		
13			Washington, Nort	th Carolina;		
14		(B)	Wilmington Regi	onal Office		
15			127 Cardinal Driv	ve Extension		
16			Wilmington, Nort	th Carolina; and		
17		(C)	Division of Water	r Quality <u>Resources</u>		
18			Central Office			
19			512 North Salisbu	ary Street		
20			Raleigh, North Ca	arolina.		
21			er Basin Schedule of	Classification and V	Vater Quality Sta	andards Classification Schedule was
22	amended effect	ive:				
23	(1)	Decer	nber 13, 1979 see Pa	ragraph (c);		
24	(2)	June 1	, 1988 see Paragraph	n (d);		
25	(3)	Janua	ry 1, 1990 see Paragr	raph (e);		
26	(4)	Augus	st 1, 1990 see Paragra	aph (f);		
27	(5)	Augus	st 1, 1991 see Paragra	aph (g);		
28	(6)	June 1	, 1992 see Paragraph	n (h);		
29	(7)	Decer	nber 1, 1992 see Para	agraph (i);		
30	(8)		nber 1, 2007 see Par			
31	(9)	•	, 2011 see Paragraph			
32						ite Oak River Basin Classification
33						cation of a portion of the White Oak
34			, ,	-	-	lorehead City and Beaufort Harbors
35		-	No. 21-(31)] from C			
36	(d) The Schee	lule of (Classifications and W	Vater Quality Stand	ards for the Wh	ite Oak River Basin Classification

37 <u>Schedule has been was</u> amended effective June 1, 1988 with the reclassification of unnamed waters as follows:

1	(1)	a portion of the Roosevelt Natural Area Swamp, which drains to Bogue Sound (20-36), from Class
2		SA to Class C Sw ORW.
3	(2)	another portion of the Roosevelt Natural Area Swamp, which drains to Bogue Sound (20-36), from
4		Class SA to Class SA Sw ORW.
5	(e) The Schee	dule of Classifications and Water Quality Standards for the White Oak River Basin Classification
6	<u>Schedule</u> has b	een was amended effective January 1, 1990 as follows:
7	(1)	Intracoastal Waterway (Index No. 19-39) from northeastern boundary of Cape Fear River Basin to
8		Daybeacon No. 17 including all unnamed bays, guts, and channels, except Rogers Bay and Mill
9		Creek and Intracoastal Waterway (Index No. 19-41) from the northeast mouth of Goose Creek to
10		the southwest mouth of Queen Creek were reclassified from Class SA to Class SA ORW.
11	(2)	Bear Island ORW Area, which includes all waters within an area north of Bear Island defined by a
12		line from the western most point on Bear Island to the northeast mouth of Goose Creek on the
13		mainland, east to the southwest mouth of Queen Creek, then south to green marker No. 49, then
14		northeast to the northern most point on Huggins Island, then southeast along the shoreline of
15		Huggins Island to the southeastern most point of Huggins Island, then south to the northeastern most
16		point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern tip of
17		Bear Island to the western mouth of Foster Creek including Cow Channel were reclassified from
18		Class SA to Class SA ORW.
19	(3)	Bogue Sound (including Intracoastal Waterway from White Oak River Basin to Beaufort
20		Inlet)(Index No. 20-36) from Bogue Inlet to a line across Bogue Sound from the southwest side of
21		mouth of Gales Creek to Rock Point and all tributaries except Hunting Island Creek, Goose Creek,
22		and Broad Creek were reclassified from Class SA to Class SA ORW.
23	(4)	Core Sound (Index No. 21-35-7) from northern boundary of White Oak River Basin (a line from
24		Hall Point to Drum Inlet) to Back Sound and all tributaries except Atlantic Harbor Restricted Area,
25		Nelson Bay, Jarrett Bay, Williston Creek, Wade Creek and Middens Creek were reclassified from
26		Class SA to Class SA ORW.
27	(5)	Back Sound (Index No. 21-35) from a point on Shackleford Banks at lat. 34 degrees 40' 57" and
28		long 76 degrees 37' 30" north to the western most point of Middle Marshes and along the northwest
29		shoreline of Middle Marshes (to include all of Middle Marshes) to Rush Point on Harkers Island
30		and along the southern shore of Harkers Island back to Core Sound and all tributaries were
31		reclassified from Class SA to Class SA ORW.
32	(f) The Schee	dule of Classifications and Water Quality Standards for the White Oak River Basin Classification
33	<u>Schedule</u> has b	een was amended effective August 1, 1990 with the reclassification of a portion of the White Oak River
34	[Index No. 20-	(1)] from Spring Branch to Hunters Creek from Class C to Class C HQW.
35	(g) The Sche	dule of Classifications and Water Quality Standards for the White Oak River Basin Classification
36	<u>Schedule</u> was a	amended effective August 1, 1991 by adding the supplemental classification NSW (Nutrient Sensitive

1	Waters) to all waters in the New River Drainage Area above a line running across the New River from Grey Point to
2	a point of land approximately 2,200 yards downstream of the mouth of Duck Creek.

- 3 (h) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin Classification
- 4 <u>Schedule</u> was amended effective June 1, 1992 with the reclassification of Peletier Creek (Index No. 20-36-11) from
- 5 its source to Bogue Sound from Class SA to Class SB with the requirement that no discharges be allowed.
- 6 (i) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin Classification
- 7 Schedule has been was amended effective December 1, 1992 with the reclassification of the Atlantic Harbor Restricted
- 8 Area (Index No. 21-35-7-2) from Class SC to Class SA ORW.
- 9 (j) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin Classification
- 10 Schedule has been was amended effective November 1, 2007 with the reclassifications listed below, and the North
- 11 Carolina Division of Water <u>Quality Resources</u> maintains a Geographic Information Systems data layer of these UWLs:
- Theodore Roosevelt Maritime Swamp Forest near Roosevelt Natural Area Swamp [Index No. 20 36-9.5-(1)] was reclassified to Class WL UWL as defined in 15A NCAC 02B .0101. UWL.
- 14
 (2)
 Bear Island Maritime Wet Grassland near the Atlantic Ocean [Index No. 99-(4)] was reclassified to

 15
 Class WL UWL as defined in 15A NCAC 02B .0101. UWL.

16 (k) The Schedule of Classifications and Water Quality Standards for the White Oak River Basin Classification

17 <u>Schedule has been was amended effective July 1, 2011 with the reclassification of a portion of Southwest Creek [Index</u>

18 No. 19-17-(0.5)] from a point approximately 0.5 mile upstream of Mill Run to Mill Run from Class C NSW to Class

19 SC NSW, and another portion of Southwest Creek [Index No. 19-17-(6.5)] from Mill Run to New River from Class

- 20 C HQW NSW to Class SC HQW NSW.
- 21
- 22 History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);
- 23 *Eff. February 1, 1976;*
- 24 Amended Eff. July 1, 2011; November 1, 2007; December 1, 1992; June 1, 1992; August 1, 1991;
- 25 August 1, 1990. <u>1990;</u>
- 26 <u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0313

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Please consider beginning (a)(2) with "<u>the following offices of the</u> North Carolina..."

For consistency purposes, in (b), delete "Streams. Such" so that it reads "Unnamed Streams. Such streams entering…" I make this suggestion because you don't have this type of introductory language anywhere else in this Rule.

In (e), line 7, please move the comma found after "rules" to behind "(... .0300)"

In (I), should "is amended effective" be "was amended effective" to match language elsewhere in your Rules? Even the most recent change uses a "was" elsewhere.

15A NCAC 02B .0313 is readopted as published in 32:22 NCR 2411-2493 as follows:

2 3

15A NCAC 02B .0313 ROANOKE RIVER BASIN

4 (a) Effective February 1, 1976, the adopted classifications Classifications assigned to the waters within the Roanoke 5 River Basin are set forth in the Roanoke River Basin Schedule of Classifications and Water Quality Standards, 6 Classification Schedule, which may be inspected at the following places: 7 the Internet at http://h2o.enr.state.ne.us/csu/; http://portal.ncdenr.org/web/wq/ps/csu/classifications; (1)8 and 9 (2)the North Carolina Department of Environment and Natural Resources: Environmental Quality: 10 (A) Raleigh Regional Office 11 3800 Barrett Drive 12 Raleigh, Carolina Carolina; 13 (B) Washington Regional Office 14 943 Washington Square Mall 15 Washington, Carolina Carolina; (C) 16 Winston-Salem Regional Office 585 Waughtown Street Winston Salem, 450 West Hanes Mill Road 17 18 North Carolina Carolina; and 19 (D) Division of Water Quality Resources 20 **Regional Office** 21 512 North Salisbury Street 22 Raleigh, North Carolina. 23 (b) Unnamed Streams. Such streams entering Virginia are classified "C", except that all backwaters of John H. Kerr 24 Reservoir and the North Carolina portion of streams tributary thereto not otherwise named or described shall carry the 25 classification "B," and all backwaters of Lake Gaston and the North Carolina portion of streams tributary thereto not 26 otherwise named or described shall carry the classification "C and B". (c) The Roanoke River Basin Schedule of Classification and Water Quality Standards Classification Schedule was 27 28 amended effective: 29 (1)May 18, 1977; 30 (2)July 9, 1978; 31 (3) July 18, 1979; 32 (4) July 13, 1980; 33 March 1, 1983; (5) 34 August 1, 1985; (6)

35 (7) February 1, 1986.

- 1 (d) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin Classification Schedule
- was amended effective July 1, 1991 with the reclassification of Hyco Lake (Index No. 22-58) from Class C to Class
 B.
- 4 (e) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin Classification Schedule
- 5 was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary
- 6 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
- 7 defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became effective
- 8 on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS
- 9 classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from
- 10 a WS classification to an alternate appropriate primary classification after being identified as downstream of a water
- 11 supply intake or identified as not being used for water supply purposes.
- 12 (f) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin Classification Schedule
- 13 was amended effective August 1, 1998 with the reclassification of Cascade Creek (Camp Creek) [Index No. 22-12]
- 14 and its tributaries from its source to the backwaters at the swimming lake from Class B to Class B ORW, and
- 15 reclassification of Indian Creek [index No. 22-13] and its tributaries from its source to Window Falls from Class C to
- 16 Class C ORW.
- 17 (g) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin Classification Schedule
- 18 was amended effective August 1, 1998 with the reclassification of Dan River and Mayo River WS-IV Protected Areas.
- 19 The Protected Areas were reduced in size.
- 20 (h) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin Classification Schedule
- 21 was amended effective April 1, 1999 as follows:
- (1) Hyco River, including Hyco Lake below elevation 410 [Index No. 22-58-(0.5)] was reclassified
 from Class B to Class WS-V B.
- 24 (2) Mayo Creek (Maho Creek)(Mayo Reservoir) [Index No. 22-58-15] was reclassified from its source
 25 to the dam of Mayo Reservoir from Class C to Class WS-V.

(i) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin Classification Schedule
 was amended effective April 1, 2001 as follows:

- 28 (1) Fullers Creek from source to a point 0.8 mile upstream of Yanceyville water supply dam [Index No.
 29 22-56-4-(1)] was reclassified from Class WS-III to Class WS-III.
- 30(2)Fullers Creek from a point 0.8 mile upstream of Yanceyville water supply dam to Yanceyville water31supply dam [Index No. 22-56-4-(2)] was reclassified from Class WS-II CA to Class WS-III CA.
- 32 (j) The Schedule of Classifications and Water Quality Standards for the Roanoke River Basin Classification Schedule
- 33 was amended effective November 1, 2007 with the reclassification of Hanging Rock Hillside Seepage Bog near
- 34 Cascade Creek [Index No. 22-12-(2)] to Class WL UWL as defined in 15A NCAC 02B .0101. Rule .0202 of this
- 35 Subchapter <u>UWL</u>. The Division of Water <u>Quality</u> <u>Resources</u> maintains a Geographic Information Systems data layer
- 36 of the UWL.

1	(k) The Schedu	le of Classifications and Water Quality Standards for the Roanoke River Basin Classification Schedule
2	was amended et	ffective July 3, 2012 as follows:
3	(1)	a portion of the Dan River [Index No. 22-(39)] (including tributaries) from the City of Roxboro's
4		intake, located approximately 0.7 mile upstream of NC Highway 62, to a point approximately 0.5
5		mile upstream of the City of Roxboro's intake from Class C to Class WS-IV CA.
6	(2)	a portion of the Dan River [Index No. 22-(39)] (including tributaries) from a point approximately
7		0.5 mile upstream of the City of Roxboro's intake to the North Carolina-Virginia state line from
8		Class C to Class WS-IV.
9	(l) The Schedul	le of Classifications and Water Quality Standards for the Roanoke River Basin Classification Schedule
10	is amended effe	active January 1, 2013 as follows:
11	(1)	a portion of the Roanoke River [Index No. 23-(26)] (including tributaries) from the Martin County
12		Regional Water And Sewer Authority's intake, located approximately 0.3 mile upstream of US
13		13/US 17, to a point approximately 0.5 mile upstream of the Martin County Regional Water And
14		Sewer Authority's intake from Class C to Class WS-IV CA.
15	(2)	a portion of the Roanoke River [Index No. 23-(26)] (including tributaries) from a point
16		approximately 0.5 mile upstream of the Martin County Regional Water And Sewer Authority's
17		intake to a point approximately 1 mile downstream of Coniott Creek (Town Swamp) from Class C
18		to Class WS-IV.
19		
20	History Note:	Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);
21		Eff. February 1, 1976;
22		Amended Eff. January 1, 2013; July 3, 2012; November 1, 2007; April 1, 2001; April 1, 1999;
23		August 1, 1998; August 3, 1992; July 1, 1991; February 1, 1986; August 1, 1985. <u>1985;</u>
24		<u>Readopted Eff. September 1, 2019</u> .

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0314

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE</u>: 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 call our office to inquire concerning the staff recommendation.

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

Please consider beginning (a)(2) with "<u>the following offices of the</u> North Carolina..."

For consistency purposes, in (b), delete "Streams. Such" so that it reads "Unnamed Streams. Such streams entering…" I make this suggestion because you don't have this type of introductory language anywhere else in this Rule.

15A NCAC 02B .0314 is readopted as published in 32:22 NCR 2411-2493 as follows:

3 15A NCAC 02B .0314 **CHOWAN RIVER BASIN** 4 (a) Places where the schedule may be inspected: Classifications assigned to the waters within the Chowan River Basin 5 are set forth in the Chowan River Basin Classification Schedule, which may be inspected in the following places 6 Clerk of Court: (1)7 Bertie County 8 Chowan County 9 Gates County Hertford County 10 11 Northampton County the Internet at http://portal.ncdenr.org/web/wq/ps/csu/classifications; and the North Carolina Department of Environment, Health and Natural Resources: Environmental 12 (2) 13 Quality: 14 (A) Raleigh Regional Office 15 3800 Barrett Drive 16 Raleigh, North Carolina North Carolina; 17 (B) Washington Regional Office 1502 North Market Street 943 Washington Square Mall 18 19 Washington, North Carolina North Carolina: and 20 <u>(C)</u> **Division of Water Resources** 21 Central Office 22 512 North Salisbury Street 23 Raleigh, North Carolina. 24 (b) Unnamed Streams. Such streams entering Virginia are classified "C." 25 (c) All classifications assigned to the waters of the Chowan River Basin and referenced in (a) of this Rule are 26 additionally classified as nutrient sensitive waters (NSW) Nutrient Sensitive Waters (NSW) in accordance with the 27 provisions of Rule .0214 of this Subchapter. 28 (d) The Chowan River Basin Schedule of Classification and Water Quality Standards Classification Schedule was 29 amended effective August 1, 1985. 30 31 Filed as an Emergency Amendment [(f)] Eff. March 10, 1979, for a period of 120 days to expire on History Note: 32 September 7, 1979; 33 Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); 34 Eff. February 1, 1976; 35 Amended Eff. November 1, 1978; March 1, 1977; 36 *Emergency Amendment [(f)] Made Permanent Eff. September 6, 1979;* Amended Eff. August 1, 1985; January 1, 1985; 1985; 37

Readopted Eff. September 1, 2019.

1

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0315

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Please consider beginning (a)(2) with "the following offices of the North Carolina..."

For consistency purposes, in (b), delete the corresponding paragraphs (e,g, "see paragraph (c)") since you've not done this in the majority of your other similar rules and have instead deleted the duplicate information.

In (c), please consider deleting the repetitive dates. I note that this was done to Rule .0306 back in 2014. In this Rule, all except (b)(18) are repetitive.

In (s), line 27, please move the comma found after "rules" to behind "(... .0300)"

In (bb) and (cc), should "is amended effective" be "was amended effective" to match language elsewhere in your Rules? Even the most recent change uses a "was" elsewhere. Also, in (bb), should "are within" be "were within"?

15A NCAC 02B .0315 is readopted as published in 32:22 NCR 2411-2493 as follows:

2					
3	15A NCAC 02E	8.0315	NEUSE RIVER BAS	IN	
4	(a) Effective Fe	bruary 1	, 1976, the adopted clas	sifications <u>Cl</u>	assifications assigned to the waters within the Neuse
5	River Basin are	e set for	th in the Neuse River	Basin Sched	ule of Classification and Water Quality Standards,
6	Classification Sc	<u>chedule,</u> v	which may be inspected a	at the following	ng places:
7	(1)	the	Internet	at	http://portal.ncdenr.org/web/wq/ps/csu/rules;
8		<u>http://p</u>	ortal.ncdenr.org/web/wq	/ps/csu/classi	fications: and
9	(2)	the Nor	th Carolina Department	of Environme	nt and Natural Resources: Environmental Quality:
10		(A)	Raleigh Regional Offic	ce	
11			3800 Barrett Drive		
12			Raleigh, North Carolin	a;	
13		(B)	Washington Regional	Office	
14			943 Washington Squar	e Mall	
15			Washington, North Ca	rolina;	
16		(C)	Wilmington Regional	Office	
17			127 Cardinal Drive <u>Dr</u>	ive Extension	
18			Wilmington, North Ca	rolina; <u>Caroli</u>	na; and
19		(D)	Division of Water Qua	lity <u>Resource</u>	<u>s</u>
20			Central Office		
21			512 North Salisbury St	reet	
22			Raleigh, North Carolin	a.	
23	(b) The Neuse	River Ba	asin Schedule of Classif	ication and V	Vater Quality Standards Classification Schedule was
24	amended effectiv	ve:			
25	(1)	March	1, 1977 see Paragraph (c) of this Rule	
26	(2)	Decem	ber 13, 1979 see Paragra	ph (d) of this	Rule;
27	(3)	Septem	ber 14, 1980 see Paragra	ph (e) of this	Rule;
28	(4)	August	9, 1981 see Paragraph (1	f) of this Rule	
29	(5)	January	v 1, 1982 see Paragraph (g) of this Rul	e;
30	(6)	April 1	, 1982 see Paragraph (h)	of this Rule;	
31	(7)	Decem	ber 1, 1983 see Paragrap	h (i) of this R	ule;
32	(8)	January	v 1, 1985 see Paragraph (j) of this Rule	;;
33	(9)	August	1, 1985 see Paragraph (l	k) of this Rule	;;
34	(10)	Februa	ry 1, 1986 see Paragraph	(l) of this Ru	le;
35	(11)	May 1,	1988 see Paragraph (m)	of this Rule;	
36	(12)	July 1,	1988 see Paragraph (n) o	of this Rule;	
37	(13)	Octobe	r 1, 1988 see Paragraph ((o) of this Rul	e;

2 (15) August 1, 1990; 3 (16) December 1, 1990 see Paragraph (q) of this Rule; 4 (17) July 1, 1991 see Paragraph (r) of this Rule; 5 (18) August 3, 1992; 6 (19) April 1, 1994 see Paragraph (u) of this Rule; 7 (20) July 1, 1996 see Paragraph (u) of this Rule; 8 (21) September 1, 1996 see Paragraph (v) of this Rule; 9 (22) April 1, 1997 see Paragraph (v) of this Rule; 10 (23) August 1, 2002 see Paragraph (v) of this Rule; 11 (24) August 1, 2002 see Paragraph (v) of this Rule; 12 (25) July 1, 2004 see Paragraph (v) of this Rule; 13 (26) November 1, 1977 verb Paragraph (b) of this Rule; 14 (27) January 15, 2011 see Paragraph (b) of this Rule; 15 (28) July 1, 2012 see Paragraph (b) of this Rule; 16 (c) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule 17 was amended effective December 13, 1979 as follows: Little River [Index No. 27-57-(21.5)] from source to 18 D to Class C. 19 <	1	(14)	January 1, 1990 see Paragraph (p) of this Rule;				
4(17)July 1, 1991 see Paragraph (r) of this Rule;5(18)August 3, 1992;6(19)April 1, 1994 see Paragraph (u) of this Rule;7(20)July 1, 1996 see Paragraph (u) of this Rule;8(21)September 1, 1996 see Paragraph (u) of this Rule;9(22)April 1, 1997 see Paragraph (v) of this Rule;10(23)August 1, 1998 see Paragraph (v) of this Rule;11(24)August 1, 2002 see Paragraph (z) of this Rule;12(25)July 1, 2004 see Paragraph (z) of this Rule;13(26)November 1, 2007 see Paragraph (a) of this Rule;14(27)January 15, 2011 see Paragraph (a) of this Rule;15(28)July 1, 2012 see Paragraph (c) of this Rule;16(c)The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule17was amended effective March 1, 1977 with the a total of 179 streams in the Neuse River Basin Classification Schedule18D to Class C.19(d) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule20has-been was amended effective December 13, 1979 as follows: Little River [Index No. 27-57-(21.5)] from source to21the dam at Wake Forest Reservoir has been reclassified from Class A-II to Class A-II and B.22(c) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule23has-been was amended effective September 14, 1980 as follows: The Eno River from Durham County State Road<	2	(15)	August 1, 1990;				
5 (18) August 3, 1992; 6 (19) April 1, 1994 see Paragraph (u) of this Rule; 7 (20) July 1, 1996 see Paragraph (u) of this Rule; 8 (21) September 1, 1996 see Paragraph (u) of this Rule; 9 (22) April 1, 1997 see Paragraph (w) of this Rule; 10 (23) August 1, 1998 see Paragraph (w) of this Rule; 11 (24) August 1, 2002 see Paragraph (y) of this Rule; 12 (25) July 1, 2004 see Paragraph (c) of this Rule; 13 (26) November 1, 2007see Paragraph (b) of this Rule; 14 (27) January 15, 2011 see Paragraph (b) of this Rule; 15 (28) July 1, 2012 see Paragraph (c) of this Rule; 16 (c) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule 17 was amended effective March 1, 1977 with the a total of 179 streams in the Neuse River Basin Classification Schedule 18 D to Class C. (d) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule 18 has-been was amended effective December 13, 1979 as follows: Little River [Index No. 27-57-(21.5)] from source to the dam at Wake Forest Reserroir has been reclassified from Class A-II to Class A-	3	(16)	(16) December 1, 1990 see Paragraph (q) of this Rule;				
6(19)April 1, 1994 see Paragraph (1) of this Rule;7(20)July 1, 1996 see Paragraph (u) of this Rule;8(21)September 1, 1996 see Paragraph (v) of this Rule;9(22)April 1, 1997 see Paragraph (w) of this Rule;10(23)August 1, 1998 see Paragraph (y) of this Rule;11(24)August 1, 2002 see Paragraph (y) of this Rule;12(25)July 1, 2004 see Paragraph (y) of this Rule;13(26)November 1, 2007see Paragraph (a) of this Rule;14(27)January 15, 2011 see Paragraph (b) of this Rule;15(28)July 1, 2012 see Paragraph (cc) of this Rule;16(c)The Sehedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule17was amended effective March 1, 1977 with the a total of 179 streams in the Neuse River Basin classification Schedule18D to Class C.19(d)The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule20has been was amended effective December 13, 1979 as follows: Little River [Index No. 27-57-(21.5)] form source to21the dam at Wake Forest Reservoir has been reclassified from Class A-II and B.26(f) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule23has been was amended effective September 14, 1980 as follows: The Eno River from Durham County State Road241003 to U.S Highway 501 [Index No. 27-2-(16)] was reclassified from Class C and B to Class A-II and B.25(f	4	(17) July 1, 1991 see Paragraph (r) of this Rule;					
 (20) July 1, 1996 see Paragraph (u) of this Rule; (21) September 1, 1996 see Paragraph (v) of this Rule; (22) April 1, 1997 see Paragraph (v) of this Rule; (23) August 1, 1998 see Paragraph (x) of this Rule; (24) August 1, 2002 see Paragraph (y) of this Rule; (25) July 1, 2004 see Paragraph (z) of this Rule; (26) November 1, 2007see Paragraph (a) of this Rule; (27) January 15, 2011 see Paragraph (a) of this Rule; (28) July 1, 2012 see Paragraph (a) of this Rule; (29) July 1, 2012 see Paragraph (b) of this Rule; (20) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule (b) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule (b) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule (b) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule (b) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule (a) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule (b) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule (c) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule (d) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule (e) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule (f) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule (g) The Schedule of Classifications and Water Quality Standards for the Neus	5	(18)	August 3, 1992;				
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34 C1 to Class C.	33	(1)	Longview Branch from source to Crabtree Creek [Index No. 27-33-(21)] was reclassified from Class				
	34		C1 to Class C.				
35 (2) Watson Branch from source to Walnut Creek [Index No. 27-34-(8)] was reclassified from Class C1	35	(2)	Watson Branch from source to Walnut Creek [Index No. 27-34-(8)] was reclassified from Class C1				
36 to Class C.	36		to Class C.				

1	(i) The Schedu	ale of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule				
2	was amended effective December 1, 1983 to add the Nutrient Sensitive Waters classification to the entire river basin					
3	above Falls dam.					
4	(j) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule					
5	has been <u>was</u> a	mended effective January 1, 1985 as follows: Nobel Canal from source to Swift Creek [Index No. 27-				
6	97-(2)] was rec	lassified from Class C1 to Class C.				
7	(k) The Sched	ule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule				
8	has been <u>was</u> a	mended effective August 1, 1985 as follows:				
9	(1)	Southeast Prong Beaverdam Creek from source to Beaverdam Creek [Index No. 27-33-15(2)] was				
10		reclassified from Class C1 to Class C.				
11	(2)	Pigeon House branch from source to Crabtree Creek [Index No. 27-33-(18)] was reclassified from				
12		Class C1 to Class C.				
13	(3)	Rocky Branch from source to Pullen Road [Index No. 27-34-6-(1)] was reclassified from Class C1				
14		to Class C.				
15	(4)	Chavis Branch from source to Watson Branch [Index No. 27-37-8-1] was reclassified from Class				
16		C1 to Class C.				
17	(l) The Schedu	ale of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule				
18	has been <u>was</u> ar	mended effective February 1, 1986 to reclassify all Class A-I and Class A-II streams in the Neuse River				
19	Basin to WS-I and WS-III.					
20	(m) The Schee	lule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule				
21	was amended of	effective May 1, 1988 to add the Nutrient Sensitive Waters classification to the waters of the Neuse				
22	River Basin be	low the Falls Lake dam.				
23	(n) The Sched	ule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule				
24	has been <u>was</u> a	mended effective July 1, 1988 as follows:				
25	(1)	Smith Creek [Index No. 27-23-(1)] from source to the dam at Wake Forest Reservoir has been				
26		reclassified from Class WS-III to WS-I.				
27	(2)	Little River [Index No. 27-57-(1)] from source to the N.C. Hwy. 97 Bridge near Zebulon including				
28		all tributaries has been reclassified from Class WS-III to WS-I.				
29	(3)	An unnamed tributary to Buffalo Creek just upstream of Robertson's Pond in Wake County from				
30		source to Buffalo Creek including Leo's Pond has been reclassified from Class C to B.				
31	(o) The Sched	ule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule				
32	has been <u>was</u> a	mended effective October 1, 1988 as follows:				
33	(1)	Walnut Creek (Lake Johnson, Lake Raleigh) [Index No. 27-34-(1)]. Lake Johnson and Lake Raleigh				
34		have been reclassified from Class WS-III to Class WS-III B.				
35	(2)	Haw Creek (Camp Charles Lake)(Index No. 27-86-3-7) from the backwaters of Camp Charles Lake				
36		to dam at Camp Charles Lake has been reclassified from Class C to Class B.				

2 has been was amended effective January 1, 1990 as follows: 3 (1)Neuse-Southeast Pamlico Sound ORW Area which includes all waters within a line beginning at 4 the southwest tip of Ocracoke Island, and extending north west along the Tar-Pamlico River Basin 5 and Neuse River Basin boundary line to Lat. 35 degrees 06' 30", thence in a southwest direction to Ship Point and all tributaries, were reclassified from Class SA NSW to Class SA NSW ORW. 6 7 (2)Core Sound (Index No. 27-149) from northeastern limit of White Oak River Basin (a line from Hall 8 Point to Drum Inlet) to Pamlico Sound and all tributaries, except Thorofare, John Day Ditch were 9 reclassified from Class SA NSW to Class SA NSW ORW. (q) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule 10 11 was amended effective December 1, 1990 with the reclassification of the following waters as described in (1) through 12 (3) of this Paragraph. 13 (1)Northwest Creek from its source to the Neuse River (Index No. 27-105) from Class SC Sw NSW to 14 Class SB Sw NSW; 15 (2)Upper Broad Creek [Index No. 27-106-(7)] from Pamlico County SR 1103 at Lees Landing to the Neuse River from Class SC Sw NSW to Class SB Sw NSW; and 16

(p) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule

17 (3) Goose Creek [Index No. 27-107-(11)] from Wood Landing to the Neuse River from Class SC Sw
18 NSW to Class SB Sw NSW.

1

19 (r) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule 20 was amended effective July 1, 1991 with the reclassification of the Bay River [Index No. 27-150-(1)] within a line 21 running from Flea Point to the Hammock, east to a line running from Bell Point to Darby Point, including Harper 22 Creek, Tempe Gut, Moore Creek and Newton Creek, and excluding that portion of the Bay River landward of a line 23 running from Poorhouse Point to Darby Point from Classes SC Sw NSW and SC Sw NSW HQW to Class SA NSW. 24 (s) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule 25 was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary 26 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 27 defined in the revised water supply protection rules, (15A NCAC 02B .0100, .0200 and .0300) which became effective 28 on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS 29 classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from 30 a WS classification to an alternate appropriate primary classification after being identified as downstream of a water 31 supply intake or identified as not being used for water supply purposes. 32 (t) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule

- 33 was amended effective April 1, 1994 as follows:
- 34 (1) Lake Crabtree [Index No. 27-33-(1)] was reclassified from Class C NSW to Class B NSW.
- 35 (2) The Eno River from Orange County State Road 1561 to Durham County State Road 1003 [Index
 36 No. 27-10-(16)] was reclassified from Class WS-IV NSW to Class WS-IV B NSW.
- 37 (3) Silver Lake (Index No. 27-43-5) was reclassified from Class WS-III NSW to Class WS-III B NSW.

- 1 (u) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule
- 2 was amended effective July 1, 1996 with the reclassification of Austin Creek [Index Nos. 27-23-3-(1) and 27-23-3-
- 3 (2)] from its source to Smith Creek from classes WS-III NSW and WS-III NSW CA to class C NSW.
- 4 (v) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule
- 5 was amended effective September 1, 1996 with the reclassification of an unnamed tributary to Hannah Creek (Tuckers
- 6 Lake) [Index No. 27-52-6-0.5] from Class C NSW to Class B NSW.
- 7 (w) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule
- 8 was amended effective April 1, 1997 with the reclassification of the Neuse River (including tributaries) from mouth
- 9 of Marks Creek to a point 1.3 miles downstream of Johnston County State Road 1908 to class WS-IV NSW and from
- 10 a point 1.3 miles downstream of Johnston County State Road 1908 to the Johnston County Water Supply intake
- 11 (located 1.8 miles downstream of Johnston County State Road 1908) to class WS-IV CA NSW [Index Nos. 27-(36)
- 12 and 27-(38.5)].

13 (x) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule 14 was amended effective August 1, 1998 with the revision of the Critical Area and Protected Area boundaries 15 surrounding the Falls Lake water supply reservoir. The revisions to these boundaries are the result of the US Army 16 Corps of Engineers raising the lake's normal pool elevation. The result of these revisions is the Critical and Protected 17 Area boundaries (classifications) may extend further upstream than the current designations. The Critical Area for a 18 WS-IV reservoir is defined as 0.5 miles and draining to the normal pool elevation. The Protected Area for a WS-IV 19 reservoir is defined as 5 miles and draining to the normal pool elevation. The normal pool elevation of the Falls Lake 20 reservoir has changed from 250.1 feet mean sea level (msl) to 251.5 feet msl. 21 (y) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule

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

- 25 0.6 mile upstream of Lenoir County proposed water supply intake to Lenoir proposed water supply intake from Class
- 26 C NSW to Class WS-IV CA NSW.
- 27 (z) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule
- 28 was amended effective July 1, 2004 with the reclassification of the Neuse River (including tributaries in Wake County)
- 29 [Index Nos. 27-(20.7), 27-21, 27-21-1] from the dam at Falls Lake to a point 0.5 mile upstream of the Town of Wake
- 30 Forest Water Supply Intake (former water supply intake for Burlington Mills Wake Finishing Plant) from Class C
- 31 NSW to Class WS-IV NSW and from a point 0.5 mile upstream of the Town of Wake Forest proposed water supply
- 32 intake to Town of Wake Forest proposed water supply intake [Index No. 27-(20.1)] from Class C NSW to Class WS-
- 33 IV NSW CA. Fantasy Lake [Index No. 27 -57-3-1-1], a former rock quarry within a WS-II NSW water supply
- 34 watershed, was reclassified from Class WS-II NSW to Class WS-II NSW CA.
- 35 (aa) The Schedule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule
- 36 was amended effective November 1, 2007 with the reclassification of the entire watershed of Deep Creek (Index No.
- 37 27-3-4) from source to Flat River from Class WS-III NSW to Class WS-III ORW NSW.

1	(bb) The Sched	ule of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule				
2	is amended effective January 15, 2011 with the reclassification of all Class C NSW waters and all Class B NSW					
3	waters upstream of the dam at Falls Reservoir from Class C NSW and Class B NSW to Class WS-V NSW and Class					
4	WS-V & B NSV	V, respectively. All waters within the Falls Watershed are within a designated Critical Water Supply				
5	Watershed and a	are subject to a special management strategy specified in Rules 15A NCAC 02B .0275 through .0283.				
6	Rules .0275 three	ough .0283 of this Subchapter.				
7	(cc) The Sched	ale of Classifications and Water Quality Standards for the Neuse River Basin Classification Schedule				
8	is amended effe	ctive July 1, 2012 as follows:				
9	(1)	Johnston County owned quarry near Little River [Index No. 27-57-(20.2)] from Class C NSW to				
10		Class WS-IV NSW CA. The Division of Water Quality Resources maintains a Geographic				
11		Information Systems data layer of this quarry;				
12	(2)	a portion of the Neuse River [Index Number 27-(41.7)] from a point approximately 1.4 miles				
13		downstream of Gar Gut to a point approximately 1.7 miles upstream of Bawdy Creek from Class				
14		WS-V NSW to Class WS-IV NSW; and				
15	(3)	a portion of the Neuse River [Index No. 27-(49.5)] from a point approximately 0.5 mile upstream				
16		of S.R. 1201 (Johnston County intake) to S.R. 1201 (Johnston County intake) from Class WS-IV				
17		NSW to Class WS-IV NSW CA.				
18						
19	History Note:	Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);				
20		Eff. February 1, 1976;				
21		Amended Eff. November 1, 2007; July 1, 2004 (see SL 2001-361); August 1, 2002; August 1, 1998;				
22		April 1, 1997; September 1, 1996; July 1, 1996; April 1, 1994; August 3, 1992; July 1, 1991;				
23		Amended Eff. January 15, 2011 (this permanent rule replaces the temporary rule approved by the				
24		RRC on December 16, 2010);				
25		Amended Eff. July 1, 2012. <u>2012:</u>				
26		<u>Readopted Eff. September 1, 2019.</u>				

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0316

DEADLINE FOR RECEIPT: Friday, August 9, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

Please consider beginning (a)(2) with "<u>the following offices of the</u> North Carolina..."

In (b), you have used "unnamed streams" and "drainage canals." I assume that these are not the same things? What is the intent here? In any event, please delete "Unnamed Streams" as you haven't used this introductory language elsewhere.

In (c), please consider deleting the repetitive dates. I note that this was done to Rule .0306 back in 2014 and other Rules do not have duplicates. In this Rule, the repetitive dates are in (c)(8), (9), and (11) through (17).

In (g), line 22, please move the comma found after "rules" to behind "(... .0300)"

In (k), you've said "the "+" symbol as used in this paragraph"; however, I don't see that this is used at all in this Rule.

15A NCAC 02B .0316 is readopted as published in 32:22 NCR 2411-2493 with changes as follows:

3	15A NCAC 02B .0316	TAR-PAMLICO RIVER BASIN

4 (a) The Tar Pamlico River Basin Schedule of Classifications and Water Quality Standards may be inspected at the

5 following places: Classifications assigned to the waters within the Tar-Pamlico River Basin are set forth in the Tar-

6 <u>Pamlico River Basin Classification Schedule, which may be inspected at the following places:</u>

7	(1)	the	internet	Internet	at	http://h2o.enr.state.nc.us/csu/;
8		<u>http://j</u>	portal.ncdenr.org/web/	wq/ps/csu/classifica	tions; and	
9	(2)	the No	orth Carolina Departme	nt of Environment a	and Natural R	esources: Environmental Quality:
10		(A)	Raleigh Regional O	ffice		
11			3800 Barrett Drive			
12			Raleigh, North Care	lina <u>Carolina;</u>		
13		(B)	Washington Region	al Office		
14			943 Washington Sq	uare Mall		
15			Washington, North	Carolina <u>Carolina; a</u>	nd	
16		(C)	Division of Water Q	Puality Resources		
17			Central Office			
18			512 North Salisbury	Street		
19			Raleigh, North Caro	lina.		
20	(b) Unnamed S	treams. A	All drainage canals not	noted in the schedu	le are classifi	ed "C Sw," except the main drainage
21	canals to Pamlie	co Sound	and its bays which are	classified "SC."		
22	(c) The Tar-Pa	imlico Ri	iver Basin Schedule of	Classification and	Water Quali	ty Standards Classification Schedule
23	was amended e	ffective:				
24	(1)	March	1, 1977;			
25	(2)	Noven	nber 1, 1978;			
26	(3)	June 8	, 1980;			
27	(4)	Octob	er 1, 1983;			
28	(5)	June 1	, 1984;			
29	(6)	Augus	t 1, 1985;			
30	(7)		ary 1, 1986;			
31	(8)	-	t 1, 1988;			
32	(9)		y 1, 1990;			
33	(10)	-	t 1, 1990;			
34	(11)	-	t 3, 1992;			
35	(12)	-	1, 1994;			
36	(13)		y 1, 1996;			
37	(14)	Septer	nber 1, 1996;			

- 1 (15) October 7, 2003;
- 2 (16) June 1, 2004;
- 3 (17) November 1, 2007.

4 (d) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin Classification

5 <u>Schedule</u> was amended effective August 1, 1988 as follows: <u>Tar River (Index No. 28-94) from a point 1.2 miles</u>
 6 <u>downstream of Broad Run to the upstream side of Tranters Creek from Class C to Class B.</u>

- 7
- 8

(1) Tar River (Index No. 28-94) from a point 1.2 miles downstream of Broad Run to the upstream side of Tranters Creek from Class C to Class B.

9 (e) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin Classification

10 Schedule was amended effective January 1, 1990 by the reclassification of Pamlico River and Pamlico Sound [Index

11 No. 29-(27)] which includes all waters within a line beginning at Juniper Bay Point and running due south to Lat. 35°

12 18' 00", long. 76° 13' 20", thence due west to lat. 35° 18' 00", long 76° 20' 00", thence northwest to Shell Point and

13 including Shell Bay, Swanquarter and Juniper Bays and their tributaries, but excluding the Blowout, Hydeland Canal,

14 Juniper Canal and Quarter Canal were reclassified from Class SA and SC to SA ORW and SC ORW.

15 (f) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin Classification

16 Schedule was amended effective January 1, 1990 by adding the supplemental classification NSW (Nutrient Sensitive

17 Waters) to all waters in the basin from source to a line across Pamlico River from Roos Point to Persimmon Tree

18 Point.

19 (g) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin Classification

20 Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a

21 primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or

22 WS-V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became

23 effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a

24 WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified

25 from a WS classification to an alternate appropriate primary classification after being identified as downstream of a

26 water supply intake or identified as not being used for water supply purposes.

27 (h) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin Classification

28 <u>Schedule</u> was amended effective April 1, 1994 with the reclassification of Blounts Creek from Herring Run to Blounts

29 Bay [Index No. 29-9-1-(3)] from Class SC NSW to Class SB NSW.

30 (i) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin Classification

31 Schedule was amended effective January 1, 1996 with the reclassification of Tranters Creek [Index Numbers

32 28-103- (4.5), 28-103- (13.5), 28-103- (14.5) and 28-103- (16.5)] from a point 1.5 miles upstream of Turkey Swamp

- 33 to the City of Washington's former auxiliary water supply intake, including tributaries, from Class WS-IV Sw NSW
- 34 and Class WS-IV CA Sw NSW to Class C Sw NSW.
- 35 (j) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin Classification
- 36 <u>Schedule</u> was amended effective September 1, 1996 with the addition of Huddles Cut (previously unnamed in the
- 37 schedule) classified as SC NSW with an Index No. of 29-25.5.

1 (k) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin Classification 2 Schedule was temporarily amended effective October 7, 2003 and permanently amended June 1, 2004 with the 3 reclassification of a portion of Swift Creek [Index Number 28-78-(0.5)] and a portion of Sandy Creek [Index Number 4 28-78-1-(19)] from Nash County SR 1004 to Nash County SR 1003 from Class C NSW to Class C ORW NSW, and 5 the waters that drain to these two creek portions to include only the ORW management strategy as represented by "+". 6 The "+" symbol as used in this paragraph means that all undesignated waterbodies that drain to the portions of the two 7 creeks referenced in this Paragraph shall comply with Paragraph (c) of Rule .0225 of this Subchapter Rule .0225 (c) of this Subchapter in order to protect the designated waters as per Rule .0203 of this Subchapter and to protect 8 9 outstanding resource values found in the designated waters as well as in the undesignated waters that drain to the 10 designated waters. 11 (1) The Schedule of Classifications and Water Quality Standards for the Tar-Pamlico River Basin Classification 12 Schedule was amended effective November 1, 2007 with the reclassifications listed below, and the North Carolina 13 Division of Water Quality Resources maintains a Geographic Information Systems data layer of these UWLs. 14 (1)Goose Creek Tidal Freshwater Marsh along the confluence of Goose Creek [Index No. 29-33] and 15 the Pamlico River [Index No. 29-(27)], along Flatty Creek [Index No. 29-11-4] a length of the Pamlico River shoreline [Index No. 29-(27)] was reclassified to Class WL UWL as defined in 15A 16 NCAC 02B .0101. UWL. 17 18 Mallard Creek Tidal Freshwater Marsh along Mallard Creek [Index No. 29-13-(1)] 0.2 miles above (2) 19 its confluence with the Pamlico River to Class WL UWL as defined in 15A NCAC 02B .0101. 20 UWL. 21 22 History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); 23 Eff. February 1, 1976; 24 Amended Eff. August 1, 2003 (see S.L. 2003-433, s.1); September 1, 1996; January 1, 1996; April 25 1, 1994; August 3, 1992; August 1, 1990; 26 Temporary Amendment Eff. October 7, 2003: 27 Amended Eff. November 1, 2007; June 1, 2004: 2004; 28 Readopted Eff. September 1, 2019.

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0317

DEADLINE FOR RECEIPT: Friday, August 9, 2019

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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 call our office to inquire concerning the staff recommendation.

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

Please consider beginning (a)(2) with "<u>the following offices of the</u> North Carolina..."

In (b), you have used "unnamed streams" and "drainage canals." I assume that these are not the same things? What is the intent here? In any event, please delete "Unnamed Streams" as you haven't used this introductory language elsewhere.

In (c), please consider deleting the repetitive dates. I note that this was done to Rule .0306 back in 2014 and other Rules do not have duplicates. In this Rule, the repetitive dates are in (c)(6) through (11). Here, I note that August 1, 1990 is addressed.

In (f), line 11, please move the comma found after "rules" to behind "(... .0300)"

15A NCAC 02B .0317 is readopted as published in 32:22 NCR 2411-2493 as follows:

3	15A NCAC 02B	B.0317	PASQUOTANK RIVER BASIN
4	(a) The Pasquot	tank Rive	r Basin Schedule of Classifications and Water Quality Standards may be inspected at the
5	following places	s:C <u>lassif</u>	ications assigned to the waters within the Pasquotank River Basin are set forth in the
6	Pasquotank Rive	er Basin C	lassification Schedule, which may be inspected at the following places:
7	(1)	the Inter	net at http://h2o.enr.state.nc.us/csu/; http://portal.ncdenr.org/web/wq/ps/csu/classifications;
8		and	
9	(2)	the Nort	h Carolina Department of Environment and Natural Resources: Environmental Quality:
10		(A)	Washington Regional Office
11			943 Washington Square Mall
12			Washington, North Carolina Carolina; and
13		(B)	Division of Water Quality Resources
14			Central Office
15			512 North Salisbury Street
16			Raleigh, North Carolina.
17	(b) Unnamed St	reams. Al	l drainage canals not noted in the schedule are classified "C."
18	(c) The Pasquot	tank Rive	r Basin Schedule of Classifications and Water Quality Standards Classification Schedule
19	was amended eff	fective:	
20	(1)	March 1	, 1977;
21	(2)	May 18	, 1977;
22	(3)	Decemb	er 13, 1979;
23	(4)	January	1, 1985;
24	(5)	Februar	y 1, 1986;
25	(6)	January	1, 1990;
26	(7)	August	1, 1990;
27	(8)	August	3, 1992;
28	(9)	August	1, 1998;
29	(10)	August	1, 2000;
30	(11)	Novemb	per 1, 2007.
31	(d) The Schedu	ile of Cla	ssifications and Water Quality Standards for the Pasquotank River Basin Classification
32	Schedule was an	nended ef	fective January 1, 1990 by the reclassification of Alligator River [Index Nos. 30-16-(1) and
33	30-16-(7)] from	source to	U.S. Hwy. 64 and all tributaries except Swindells Canal, Florida Canal, New Lake, Fairfield
34	Canal, Carters	Canal, D	unbar Canal and Intracoastal Waterway (Pungo River - Alligator River Canal) were
35	reclassified from	n C Sw an	d SC Sw to C Sw ORW and SC Sw ORW.
36	(e) The Schedu	ile of Cla	ssifications and Water Quality Standards for the Pasquotank River Basin Classification

37 <u>Schedule</u> was amended effective August 1, 1990 as follows:

- 1(1)Croatan Sound [Index No. 30-20-(1)] from a point of land on the southern side of mouth of Peter2Mashoes Creek on Dare County mainland following a line eastward to Northwest Point on Roanoke3Island and then from Northwest Point following a line west to Reeds Point on Dare County mainland4was reclassified from Class SC to Class SB.
- 5(2)Croatan Sound [Index No. 30-20-(1.5)] from Northwest Point on Roanoke Island following a line6west to Reeds Point on Dare County mainland to William B. Umstead Memorial Bridge was7reclassified from Class SC to Class SA.
- 8 (f) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin Classification
- 9 Schedule was amended effective August 3, 1992 with the reclassification of all water supply waters (waters with a

10 primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or

11 WS-V as defined in the revised water supply protection rules, (15A NCAC 2B .0100, .0200 and .0300) which became

12 effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a

13 WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified

14 from a WS classification to an alternate appropriate primary classification after being identified as downstream of a

15 water supply intake or identified as not being used for water supply purposes.

16 (g) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin Classification

17 <u>Schedule</u> was amended effective August 1, 1998 with the revision to the primary classification for a portion of the

18 Pasquotank River [Index No. 30-3-(1.7)] from Class WS-IV to Class WS-V.

19 (h) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin Classification

20 <u>Schedule</u> was amended effective August 1, 2000 with the reclassification of Lake Phelps [Index No. 30-14-4-6-1]

21 from Class C Sw to Class B Sw ORW.

(i) The Schedule of Classifications and Water Quality Standards for the Pasquotank River Basin <u>Classification</u>
 <u>Schedule</u> was amended effective November 1, 2007 with the reclassifications listed below, and the North Carolina
 Division of Water Quality Resources maintains a Geographic Information Systems data layer of these UWLs.

- (1) Phelps Lake Natural Lake Shoreline near Phelps Lake [Index No. 30-14-4-6-1] was reclassified to
 Class WL UWL as defined in 15A NCAC 02B .0101. <u>UWL.</u>
- 27 (2) Nags Head Woods near Buzzard Bay [Index No. 30-21-1] was reclassified to Class WL UWL as
 28 defined in 15A NCAC 02B .0101. UWL.
- 29
- 30 *History Note:* Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);

31 *Eff. February 1, 1976;*

- 32
 Amended Eff. November 1, 2007; August 1, 2000; August 1, 1998; August 3, 1992; August 1, 1990;

 33
 January 1, 1990; February 1, 1986. <u>1986;</u>
- 34 <u>Readopted Eff. September 1, 2019.</u>

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0621

DEADLINE FOR RECEIPT: Tuesday, August 6, 2019

<u>PLEASE NOTE:</u> 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 call our office to inquire concerning the staff recommendation.

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

In Items (2) and (25), since you've already included the definitions in G.S. 143-214.7, it is not necessary to do it again in your Rule? I note that this was also asked in the January 30, 2019 technical change requests and this language was taken out.

In Item (14), delete or define "heavily" in "heavily supplemented" I note that this language as striken in the most recently approved version of 15A NCAC 02B .0610.

In Item (17), have lines 6-9 been otherwise published or is this information also in a different rule that's being repealed? I don't see it in .202.

In Item (18), what are "watershed regulations"? Here, do you mean your Rules? Federal Regulations? Please clarify.

2		
3	15A NCAC 02B	.0621 WATER SUPPLY WATERSHED PROTECTION PROGRAM: DEFINITIONS
4	In addition to the	definitions set forth in G.S. 143-214.7, the following definitions shall apply to Rules .06220624.
5	<u>(1)</u>	"Balance of Watershed" or "-BW" means the area adjoining and upstream of the critical area in a
6		WS-II and WS-III water supply watershed. The "balance of watershed" is comprised of the entire
7		land area contributing surface drainage to the stream, river, or reservoir where a water supply intake
8		is located.
9	<u>(2)</u>	"Built-upon area" has the same meaning as in GS 143-214.7
10	(2)<u>(</u>3)	"Cluster development" has the same meaning as in 15A NCAC 02B .0202. means the grouping of
11		buildings in order to conserve land resources and provide for innovation in the design of the project
12		including minimizing stormwater runoff impacts. This term includes nonresidential development
13		as well as single family residential and multi family developments. Planned unit development and
14		mixed use development shall be considered as cluster development.
15	(3)<u>(4)</u>	"Commission" has the same meaning as in 15A NCAC 02H .1002.
16	(4)<u>(5)</u>	"Common plan of development" has the same meaning as in 15A NCAC 02H .1002.
17	(5)<u>(6)</u>	"Critical area" has the same meaning as in 15A NCAC 02B .0202.
18	(6)<u>(7)</u>	"Curb Outlet System" has the same meaning as in 15A NCAC 02H .1002.
19	(7)<u>(8)</u>	"Dispersed flow" has the same meaning as in 15A NCAC 02H .1002.
20	(8)<u>(9)</u>	"Division" has the same meaning as in 15A NCAC 02H .1002.
21	(9)<u>(10)</u>	"Erosion and Sedimentation Control Plan" has the same meaning as in 15A NCAC 02H .1002.
22	(10)<u>(</u>11)	"Existing development" has the same meaning as in 15A NCAC 02H .1002.
23	(11)(12)	Family subdivision" has the same meaning as in 15A NCAC 02B .0202. means a division of a tract
24		of land:
25		(a) to convey the resulting parcels, with the exception of parcels retained by the grantor, to a relative
26		or relatives as a gift for nominal consideration, but only if no more than one parcel is conveyed by
27		the grantor from the tract to any one relative; or
28		(b) to divide land form a common ancestor among tenants in common, all of whom inherited by
29		intestacy or by will.
30	(12)<u>(13)</u>	"Geotextile fabric" has the same meaning as in 15A NCAC 02H .1002.
31	(13)<u>(14)</u>	"Intermittent stream" has the same meaning as in 15A NCAC 02B .0610 means a well-defined
32		channel that contains water for only part of the year, typically during winter and spring when the
33		aquatic bed is below the perched or seasonal high water table. The flow may be heavily
34		supplemented by stormwater runoff. An intermittent stream often lacks the biological and
35		hydrological characteristics commonly associated with the continuous conveyance of water.
36	(14)<u>(15</u>)	"Major variance" has the same meaning as in 15A NCAC 02B .0202. means a variance that is not a
37		"minor variance" as that term is defined in this Rule.

15A NCAC 02B .0621 is amended pursuant to G.S. 150B-21.5(a)(3) as follows:

1	(15)<u>(</u>16)	"Minimum Design Criteria" or "MDC" has the same meaning as in 15A NCAC 02H .1002.
2	(16)<u>(17)</u>	"Minor variance" has the same meaning as in 15A NCAC 02B .0202. means a variance from the
3		minimum statewide watershed protection rules that results in the relaxation of up to 10 percent of
4		any vegetated setback, density, or minimum lot size requirement applicable to low density
5		development, or the relaxation of up to five percent of any vegetated setback, density, or minimum
6		lot size requirement applicable to high density development. For variances to a vegetated setback
7		requirement, the percent variation shall be calculated using the foot print of built-upon area proposed
8		to encroach within the vegetated setback divided by the total area of vegetated setback within the
9		project.
10	(17)<u>(18)</u>	"Nonconforming lot of record" has the same meaning as in 15A NCAC 02B .0202. means a lot
11		described by a plat or a deed that was recorded prior to the effective date of local watershed
12		regulations (or their amendments) that does not meet the minimum lot size or other development
13		requirements of Rule .0624 of this Section.
14	(18)<u>(</u>19)	"NPDES" has the same meaning as in 15A NCAC 02H .1002.
15	(19)<u>(</u>20)	"Perennial stream" has the same meaning as in 15A NCAC 02B .0610 means a well-defined channel
16		that contains water year round during a year of normal rainfall with the aquatic bed located below
17		the perched or seasonal high water table for most of the year. Groundwater is the primary source of
18		water for a perennial steam, but it also carries stormwater runoff. A perennial stream exhibits the
19		typical biological, hydrological, and physical characteristics commonly associated with the
20		continuous conveyance of water.
21	(20)(21)	"Perennial waterbody" has the same meaning as in 15A NCAC 02B .0610 means a natural or man-
22		made watershed that stores surface water permanently at depths sufficient to preclude growth of
23		rooted plants, including lakes, ponds, sounds, non-stream estuaries and ocean.
24	(21)(22)	"Primary SCM" has the same meaning as in 15A NCAC 02H .1002.
25	(22)(23)	"Project" has the same meaning as in 15A NCAC 02H .1002.
26	(23)(24)	"Protected area" has the same meaning as in 15A NCAC 02B .0202.
27	(24)<u>(</u>25)	"Redevelopment" has the same meaning as in GS 143-214.7
28	(25)(26)	"Required storm depth" has the same meaning as in 15A NCAC 02H .1002.
29	(26) (27)	"Runoff treatment" has the same meaning as in 15A NCAC 02H .1002.
30	(27)<u>(</u>28)	"Runoff volume match" has the same meaning as in 15A NCAC 02H .1002.
31	(28)(29)	"Secondary SCM" has the same meaning as in 15A NCAC 02H .1002.
32	(29)<u>(</u>30)	"Stormwater Control Measure" or "SCM" has the same meaning as in 15A NCAC 02H .1002.
33	(30)<u>(</u>31)	"Vegetated setback" has the same meaning as in 15A NCAC 02H .1002.
34	(31)<u>(32)</u>	"Vegetated conveyance" has the same meaning as in 15A NCAC 02H .1002.
35		
36	History Note:	Authority G.S. 143-214.1; 143-214.5; 143-215.3(a)(1);

1	Eff. March 1, 2019 (Portions of this Rule were previously codified in 15A NCAC 02B .0104 and 02B
2	.0212 through .0218), July 11, 2019;
3	Amended Eff. September 1, 2019.

15A NCAC 02B .0624 is amended pursuant to G.S. 150B-21.5(a)(3) as follows:

3 15A NCAC 02B.0624 WATER SUPPLY WATERSHED PROTECTION PROGRAM: NONPOINT 4 SOURCE AND STORMWATER POLLUTION CONTROL

5 This Rule sets forth requirements for projects that are subject to water supply watershed regulations.

- 6 (1) IMPLEMENTING AUTHORITY. The requirements of this Rule shall be implemented by local 7 governments with land use authority in one or more designated water supply watersheds. State 8 agencies shall also comply with this Rule insofar as required by G.S. 143-214.5 and in accordance 9 with Rule .0622 of this Section.
- 10(2)APPLICABILITY. This Rule shall apply to all new development projects, including state owned11projects, that lie within a designated water supply watershed, except in a Class WS-IV watershed12where this Rule applies only to new development projects that require an Erosion and Sedimentation13Control Plan. Rule .0622 of this Section includes project types to which rules do not apply.
- 14(3)PROJECT DENSITY. The following maximum allowable project densities and minimum lot sizes15shall apply to a project according to the classification of the water supply watershed where it is16located, its relative location in the watershed, its project density, and the type of development:
- 17

		Maximum Allowable	Project Density or 1	Minimum Lot Size		
Water Supply	Location in the Watershed	Low Density Development		High Density		
Classification				Development		
		Single-family	Non-residential			
		detached residential	and all other	All types		
			residential			
	Not Applicable:	Watershed shall remain	undeveloped excep	t for the following		
	uses when they cannot be avoided: power transmission lines, restricted access					
WS-I	roads, and structures associated with water withdrawal, treatment, and					
	distribution of the WS-I water. Built-upon area shall be designed and located					
	to minimize stormwater runoff impact to receiving waters.					
		1 dwelling unit per 2				
	Critical Area	acres or 80,000				
		square foot lot	6% built-upon	6 to 24% built-		
WS-II		excluding roadway	area	upon area		
w 5-11		right-of-way or 6%				
		built-upon area				
	Balance of	1 dwelling unit per 1	12% built-upon	12 to 30% built-		
	Watershed	acre or 40,000	area	upon area		

		square foot lot		
		-		
		excluding roadway		
		right-of-way or 12%		
		built-upon area		
		1 dwelling unit per 1		
		acre or 40,000		
	Critical Area	square foot lot	12% built-upon	12 to 30% built-
		excluding roadway	area	upon area
		right-of-way or 12%		
		built-upon area		
WS-III		1 dwelling unit per		
		one-half acre or		
	Balance of	20,000 square foot	2.40/ 1 14	24 to 50% built-
		lot excluding	24% built-upon	
	Watershed	roadway right-of-	area	upon area
		way or 24% built-		
		upon area		
		2 dwelling units per		
		acre or 20,000		
		square foot lot	24% built-upon	24 to 50% built-
	Critical Area	excluding roadway	area	upon area
		right-of-way or 24%		
		built-upon area		
		2 dwelling units per		
		acre or 20,000		
WS-IV		square foot lot	24% built-upon	
		excluding roadway		
		right-of-way or 24%	area; or 36%	
	Protected Area	built-upon; or 3	- 3 built-upon area 2 without curb	24 to 70% built-
		dwelling units per		upon area
		acre or 36% built-	and gutter street	
		upon area without	system	
		curb and gutter street		
		system		
WS-V		Not Appl	licable	
		1.0011001		

1	(4)	CALCU	JLATIO	N OF PROJECT DENSITY. The following requirements shall apply to the
2		calculat	ion of pr	oject density:
3		(a)	Project	density shall be calculated as the total built-upon area divided by the total project
4			area;	
5		(b)	A proje	ct with "existing development," as that term is defined in Rule .0621 of this Section,
6			may us	e the calculation method in Sub-Item (a) of this Item or may calculate project density
7			as the	difference of total built-upon area minus existing built-upon area divided by the
8			differer	nce of total project area minus existing built-upon area. Expansions to existing
9			develop	oment shall be subject to this Rule except as excluded in Sub-Item (3)(d) of this Rule
10			<u>Rule .0</u>	622 (1)(d) of this Section. Where there is a net increase of built-upon area, only the
11			area of	net increase shall be subject to this Rule. Where existing development is being
12			replace	d with new built-upon area, and there is a net increase of built-upon area, only the
13			area of	net increase shall be subject to this Rule;
14		(c)	Total p	roject area shall exclude the following:
15			(i)	areas below the Normal High Water Line (NHWL); and
16			(ii)	areas defined as "coastal wetlands" pursuant to 15A NCAC 07H .0205, herein
17				incorporated by reference, including subsequent amendments and editions, and
18				available at no cost at http://reports.oah.state.nc.us/ncac.asp, as measured
19				landward from the NHWL; and
20		(d)	Project	s under a common plan of development shall be considered as a single project for
21			purpose	es of density calculation except that on a case-by-case basis, local governments may
22			allow p	rojects to be considered to have both high and low density areas based on one or
23			more of	f the following criteria:
24			(i)	natural drainage area boundaries;
25			(ii)	variations in land use throughout the project; or
26			(iii)	construction phasing.
27	(5)	LOW E	DENSITY	PROJECTS. In addition to complying with the project density requirements of
28		Item (3)) of this I	Rule, low density projects shall comply with the following:
29		(a)	VEGET	TATED CONVEYANCES. Stormwater runoff from the project shall be released to
30			vegetat	ed areas as dispersed flow or transported by vegetated conveyances to the maximum
31			extent p	practicable. In determining whether this criteria has been met, the local government
32			shall ta	ke into account site-specific factors such as topography and site layout as well as
33			protecti	on of water quality. Vegetated conveyances shall be maintained in perpetuity to
34			ensure	that they function as designed. Vegetated conveyances that meet the following
35				shall be deemed to satisfy the requirements of this Sub-Item:
36			(i)	Side slopes shall be no steeper than 3:1 (horizontal to vertical) unless it is
37				demonstrated to the local government that the soils and vegetation will remain

1				stable in perpetuity based on engineering calculations and on-site soil
2				investigation; and
3			(ii)	The conveyance shall be designed so that it does not erode during the peak flow
4			. ,	from the 10-year storm event as demonstrated by engineering calculations.
5		(b)	CURB	OUTLET SYSTEMS. In lieu of vegetated conveyances, low density projects shall
6		()		e option to use curb and gutter with outlets to convey stormwater to grassed swales
7				etated areas. Requirements for these curb outlet systems shall be as follows:
8			(i)	The curb outlets shall be located such that the swale or vegetated area can carry
9				the peak flow from the 10-year storm and at a non-erosive velocity;
10			(ii)	The longitudinal slope of the swale or vegetated area shall not exceed five percent
11			~ /	except where not practical due to physical constraints. In these cases, devices to
12				slow the rate of runoff and encourage infiltration to reduce pollutant delivery shall
13				be provided;
14			(iii)	The swale's cross section shall be trapezoidal with a minimum bottom width of
15				two feet;
16			(iv)	The side slopes of the swale or vegetated area shall be no steeper than 3:1
17				(horizontal to vertical);
18			(v)	The minimum length of the swale or vegetated area shall be 100 feet; and
19			(vi)	Low density projects may use treatment swales designed in accordance with 15A
20				NCAC 02H .1061 in lieu of the requirements specified in Sub-Items (i) through
21				(v) of this Sub-Item.
22	(6)	HIGH	DENSIT	Y PROJECTS. In addition to complying with the project density requirements of
23		Item (3	3) of this	Rule, high density projects shall comply with the following:
24		(a)	SCMs	shall be designed, constructed, and maintained so that the project achieves either
25			"runof	f treatment" or "runoff volume match" as those terms are defined in Rule .0621 of
26			this Se	ction;
27		(b)	For hig	gh density projects designed to achieve runoff treatment, the required storm depth
28			shall b	e one inch. Applicants shall have the option to design projects to achieve runoff
29			volume	e match in lieu of runoff treatment;
30		(c)	Stormy	vater runoff from off-site areas and "existing development," as that term is defined
31			in Rule	e .0621 of this Section, shall not be required to be treated in the SCM. Runoff from
32			off-site	e areas or existing development that is not bypassed shall be included in sizing of
33			on-site	SCMs;
34		(d)	SCMs	shall meet the relevant MDC set forth in 15A NCAC 02H .1050 through .1062; and
35		(e)	Stormy	vater outlets shall be designed so that they do not cause erosion downslope of the
36			dischar	ge point during the peak flow from the 10-year storm event as shown by engineering
37			calcula	tions.

1	(7)	OPTIONS FO	R IMPLEMENTING PROJECT DENSITY. Local governments shall have the
2		following optio	ns when developing or revising their ordinances in place of or in addition to the
3		requirements of	Ttem (3) of this Rule, as appropriate:
4		(a) Local	governments may allow only low density development in their water supply
5		waters	hed areas in accordance with this Section.
6		(b) Local	governments may regulate low density single-family detached residential
7		develo	pment using the minimum lot size requirements, dwelling unit per acre
8		require	ements, built-upon area percentages, or some combination of these.
9		(c) 10/70	OPTION. Outside of WS-I watersheds and the critical areas of WS-II, WS-III, and
10		WS-IV	⁷ watersheds, local governments may regulate new development under the "10/70
11		option	" in accordance with the following requirements:
12		(i)	A maximum of 10 percent of the land area of a water supply watershed outside of
13			the critical area and within a local government's planning jurisdiction may be
14			developed with new development projects and expansions of existing
15			development of up to 70 percent built-upon area.
16		(ii)	In water supply watersheds classified on or before August 3, 1992, the beginning
17			amount of acreage available under this option shall be based on a local
18			government's jurisdiction as delineated on July 1, 1993. In water supply
19			watersheds classified after August 3, 1992, the beginning amount of acreage
20			available under this option shall be based on a local government's jurisdiction as
21			delineated on the date the water supply watershed classification became effective.
22			The acreage within the critical area shall not be counted towards the allowable
23			10/70 option acreage;
24		(iii)	Projects that are covered under the $10/70$ option shall comply with the low density
25			requirements set forth in Item (5) of this Rule unless the local government allows
26			high density development, in which case the local government may require these
27			projects to comply with the high density requirements set forth in Item (6) of this
28			Rule;
29		(iv)	The maximum built-upon area allowed on any given new development project
30			shall be 70 percent;
31		(v)	A local government having jurisdiction within a designated water supply
32			watershed may transfer, in whole or in part, its right to the 10/70 land area to
33			another local government within the same water supply watershed upon submittal
34			of a joint resolution and approval by the Commission; and
35		(vi)	When the water supply watershed is composed of public lands, such as National
36			Forest land, local governments may count the public land acreage within the

1			watershed outside of the critical area in calculating the acreage allowed under this
2			provision.
3		(d)	New development shall meet the development requirements on a project-by-project basis
4			except local governments may submit ordinances that use density or built-upon area criteria
5			averaged throughout the local government's watershed jurisdiction instead of on a project-
6			by-project basis within the watershed. Prior to approval of the ordinance, the local
7			government shall demonstrate to the Commission that the provisions as averaged meet or
8			exceed the statewide minimum requirements and that a mechanism exists to ensure the
9			planned distribution of development potential throughout the local government's
10			jurisdiction within the watershed.
11		(e)	Local governments may administer oversight of future development activities in single-
12			family detached residential developments that exceed the applicable low density
13			requirements by tracking dwelling units rather than percentage built-upon area, as long as
14			the SCM is sized to capture and treat runoff from all pervious and built-upon surfaces
15			shown on the development plan and any off-site drainage from pervious and built-upon
16			surfaces, and when an additional safety factor of 15 percent of built-upon area of the project
17			site is figured in.
18	(8)	CLUS	TER DEVELOPMENT. Cluster development shall be allowed on a project-by-project basis
19		as foll	ows:
20		(a)	Overall density of the project shall meet the requirements of Item (3) of this Rule;
21		(b)	Vegetated setbacks shall meet the requirements of Item (11) of this Rule;
22		(c)	Built-upon areas are designed and located to minimize stormwater runoff impact to
23			receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow
24			through vegetated areas, and maximize the flow length through vegetated areas;
25		(d)	Areas of concentrated development shall be located in upland areas and away, to the
26			maximum extent practicable, from surface waters and drainageways. In determining
27			whether these criteria have been met, the local government shall take into account site-
28			specific factors such as topography and site layout as well as protection of water quality;
29		(e)	The remainder of tract shall remain in a vegetated or natural state;
30		(f)	The area in the vegetated or natural state may be conveyed to a property owners association,
31			a local government for preservation as a park or greenway, a conservation organization, or
32			placed in a permanent conservation or farmland preservation easement;
33		(g)	A maintenance agreement for the vegetated or natural area shall be filed with the Register
34			of Deeds; and
35		(h)	Cluster development that meets the applicable low density requirements shall comply with

1	(9)	DENSITY	AVERAGING OF NONCONTIGUOUS PARCELS. Density averaging of two
2		noncontiguo	us parcels for purposes of complying with this Rule shall be allowed in accordance with
3		G.S. 143-21	4.5 (d2).
4	(10)	RESPONSE	BILITY FOR SCM OPERATION & MAINTENANCE. Operation and maintenance
5		agreements	and plans are required for SCMs in accordance with 15A NCAC 02H .1050. Local
6		government	s that allow high density development shall assume responsibility for operation and
7		maintenance	e of the SCMs that they approve.
8	(11)	VEGETATI	ED SETBACKS. Vegetated setbacks shall be required along perennial waterbodies and
9		perennial st	reams that are indicated on the most recent versions of the United States Geological
10		Survey (US	GS) 1:24,000 scale (7.5 minute) quadrangle topographic maps, which are herein
11		incorporated	by reference and are available at no cost at http://www.usgs.gov/pubprod/, or other
12		maps develo	ped by the Department or a local government and approved by the Commission. Where
13		USGS topog	graphic maps do not distinguish between perennial and intermittent streams, an on-site
14		stream dete	rmination may be performed by an individual qualified to perform such stream
15		determinatio	ons. A qualified individual is one who has been certified to perform stream
16		determinatio	ons by completing and passing the Surface Water Identification Training and
17		Certification	(SWITC) Course offered by the North Carolina Division of Water Resources and North
18		Carolina Sta	te University. Vegetated setbacks shall also be in accordance with the following:
19		(a) MI	NIMUM VEGETATION WIDTHS. The following minimum widths shall apply:
20		(i)	low density projects – 30 feet;
21		(ii)	high density projects – 100 feet;
22		(iii	projects covered under the $10/70$ option -100 feet; and
23		(iv)	agricultural activities - 10 feet, or equivalent control as determined by the
24			designated agency as set forth in Rule .0622 of this Section; and
25		(b) The	e width of a vegetated setback shall be measured horizontally from the normal pool
26		ele	vation of impounded structures, from the top of bank of each side of streams or rivers,
27		and	from the mean high waterline of tidal waters, perpendicular to the shoreline;
28		(c) Ve	getated setbacks may be cleared or graded, but shall be replanted and maintained in
29		gra	ss or other vegetation;
30		(d) No	new built-upon area shall be allowed in the vegetated setback except for the following
31		use	s where it is not practical to locate the built-upon area elsewhere:
32		(i)	publicly-funded linear projects such as roads, greenways, and sidewalks;
33		(ii)	water dependent structures such as docks; and
34		(iii) minimal footprint uses such as poles, signs, utility appurtenances, and security
35			lights.
36			Built-upon area associated with these uses shall be minimized and the
37			channelization of stormwater runoff shall be avoided; and

1		(e) Artificial streambank and shoreline stabilization shall not be subject to the requirements of
2		this Item.
3		(f) For minor variances to a vegetated setback requirement, the percent variation shall be
4		calculated using the footprint of built upon area proposed to encroach within the vegetated
5		setback divided by the total area of vegetated setback within the project.
6		(g) Non-family subdivisions that are exempt from local subdivision ordinances shall
7		implement the requirements of this Item to the maximum extent practicable considering
8		site-specific factors including technical and cost consideration as well as protection of
9		water quality.
10	(12)	VARIANCES. Variances to this Rule may be considered in accordance with Rule .0623 of this
11		Section.
12		
13	History Note:	Authority G.S. 143-214.1; 143-214.5; 143-215.3(a)(1);
14		Eff. March 1, 2019 (Portions of this Rule were previously codified in 15A NCAC 02B .0104 and 02B
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