

Burgos, Alexander N

Subject: FW: [External] RE: 15A NCAC 02B .0309
Attachments: 15A NCAC 02B .0309.doc

From: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Sent: Monday, February 17, 2025 1:05 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Higgins, Karen <karen.higgins@deq.nc.gov>; Liebig, Elizabeth <Elizabeth.Liebig@deq.nc.gov>; Young, Elizabeth S <esyoung@ncdoj.gov>
Subject: Re: [External] RE: 15A NCAC 02B .0309

Hi Bill,

The re-written rule is attached. Responses are in red below. Thanks.

Jennifer

First, as “best usage” is a defined term, you do not need quotations.

Quotation marks have been removed.

The way the rule is written it reads like the Classification Schedule is being retroactively amended which is not permissible. Ex. (c) The Yadkin-Pee Dee River Basin Classification Schedule was amended for the “best usage” of waters, effective beginning October 1, 1988 as follows:...

Consider: “The Yadkin-Pee Dee River Basin Classification Schedule is amended as follows:... “

Then, after the numeric listing of amendments, add, “For informational purposed only, this amendment was entered into the North Carolina Code on October 1, 1988 with an equivalent effective date.”

The rule has been amended so that, after the numeric listing of amendments, each paragraph reads “This amendment was entered into the NC Administrative Code on [date] with an equivalent effective date.”

Does this not resolve this issue of the appearance that the language is establishing a retroactive effective date while still preserving the information for the public?

The EMC understands the concern that the prior language suggests the Code is being amended retroactively, which is not permissible. We removed “for informational purposes only” because the rule and the effective dates are regulatory, and we do not want the rule to be read as though the classification schedules in each paragraph are informational only.

Jennifer Everett

DEQ Rulemaking Coordinator

N.C. Department of Environmental Quality

Office of General Counsel

1601 Mail Service Center

Raleigh, NC 27699-1601

Tele: (919)-707-8595

<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

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

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

4 (a) Classifications assigned to the waters within the Yadkin-Pee Dee River Basin pursuant to Rule .0101 of this
5 Subchapter are set forth in the Yadkin River Basin Classification Schedule, which may be inspected at the following
6 places:

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

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

10 (A) Mooresville Regional Office
11 610 East Center Avenue, Suite 301
12 Mooresville, North Carolina;

13 (B) Winston-Salem Regional Office
14 450 West Hanes Mill Road
15 Winston-Salem, North Carolina;

16 (C) Fayetteville Regional Office
17 225 Green Street
18 Systel Building Suite 714
19 Fayetteville, North Carolina;

20 (D) Asheville Regional Office
21 2090 US Highway 70
22 Swannanoa, North Carolina; and

23 (E) Division of Water Resources
24 Central Office
25 512 North Salisbury Street
26 Raleigh, North Carolina.

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

29 ~~(c) The Yadkin Pee Dee River Basin Classification Schedule was amended effective:~~

30 ~~(1) February 12, 1979;~~

31 ~~(2) March 1, 1983;~~

32 ~~(3) August 1, 1985;~~

33 ~~(4) February 1, 1986;~~

34 ~~(5) October 1, 1988;~~

35 ~~(6) March 1, 1989;~~

36 ~~(7) January 1, 1990;~~

37 ~~(8) August 1, 1990;~~

(9) — January 1, 1992;

(10) — April 1, 1992;

(11) — August 3, 1992;

(12) — December 1, 1992;

(13) — April 1, 1993;

(14) — September 1, 1994;

(15) — August 1, 1995;

(16) — August 1, 1998;

(17) — April 1, 1999;

(18) — July 1, 2006;

(19) — September 1, 2006;

(20) — November 1, 2007; [2007; and

(21) — March 1, 2025.]

(d)(c) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for best usage of waters effective October 1, 1988 as follows:

(1) Mitchell River [Index No. 12-62-(1)] from source to mouth of Christian Creek (North Fork Mitchell River) including all tributaries has been reclassified from Class B Tr to Class B Tr ORW.

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

(3) Mitchell River [Index No. 12-62-(12)] from Surry County SR 1315 to mouth of South Fork Mitchell River including all tributaries from Class C to Class C ORW.

This amendment was entered into the NC Administrative Code on October 1, 1988, with an equivalent effective date.

(e)(d) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for best usage of waters effective March 1, 1989 as follows: Elk Creek [Index Nos. 12-24-(1) and 12-24-(10)] and all tributary waters were reclassified from Class B-trout, Class C-trout and Class B to Class B-trout ORW, Class C-trout ORW and Class B ORW. This amendment was entered into the NC Administrative Code on March 1, 1989, with an equivalent effective date.

(f)(e) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for best usage of waters effective January 1, 1990 as follows: Barnes Creek (Index No. 13-2-18) was reclassified from Class C to Class C ORW. This amendment was entered into the NC Administrative Code on January 1, 1990, with an equivalent effective date.

(g)(f) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for best usage of waters effective January 1, 1992 as follows:

(1) Little River [Index Nos. 13-25-(10) and 13-25-(19)] from Suggs Creek to Densons Creek has been reclassified from Classes WS-III and C to Classes WS-III HQW and C HQW.

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

This amendment was entered into the NC Administrative Code on January 1, 1992, with an equivalent effective date.

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

This amendment was entered into the NC Administrative Code on April 1, 1992, with an equivalent effective date.

~~(i)~~(h) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for best usage of waters effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I,

WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992.

In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes. This amendment was entered into the NC Administrative Code on August 3, 1992, with an equivalent effective date.

~~(j)~~(i) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for best usage of waters effective December 1, 1992 as follows:

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

This amendment was entered into the NC Administrative Code on December 1, 1992, with an equivalent effective date.

~~(k)~~(j) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for best usage of waters effective September 1, 1994 as follows:

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

(3) The Yadkin River [Index Nos. 12-(53) and 12-(71)] from a point 0.3 mile upstream of the mouth of Elkin Creek (River) to the Town of King water supply intake including associated tributaries was reclassified from Classes C and WS-IV to Classes WS-IV and WS-IV CA.

(4) The Yadkin River [Index Nos. 12-(80.5), 12-(81.5) and 12-(84.5)] from the Town of King water supply intake to the Davie County water supply intake reclassified from Classes C, B, WS-IV and WS-V to Classes WS-IV, WS-IV B and WS-IV CA.

This amendment was entered into the NC Administrative Code on September 1, 1994, with an equivalent effective date.

~~(l)~~(k) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~is amended for best usage of waters effective August 1, 1995 as follows: Bear Creek [Index Nos. 12-108-18-(3), 12-108-18-(3.3)], Little Bear Creek (Index No. 12-108-18-2), and Blue Branch (Index No. 12-108-18-2-1) were reclassified from WS-II and WS-II CA (Critical Area) to C and WS-IV. This amendment was entered into the NC Administrative Code on August 1, 1995, with an equivalent effective date.

~~(m)~~(l) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~is amended for best usage of waters effective August 1, 1998 with the revision to the primary classification for portions of the Yadkin River [Index No. 12-(45)] from Class WS-IV to WS-V, Yadkin River [Index No. 12-(67.5)] from Class WS-IV to Class C, Yadkin River [Index Nos. 12-(93.5) and 12-(98.5)] from Class WS-IV to Class WS-V, South Yadkin River [Index No. 12-108-(12.5)] from Class WS-IV to Class WS-V, and South Yadkin River [Index Nos. 12-108-(19.5) and 12-108-(22)] from Class WS-IV to Class C. This amendment was entered into the NC Administrative Code on August 1, 1998, with an equivalent effective date.

~~(n)~~(m) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~is amended for best usage of waters effective April 1, 1999 with the reclassification of a portion of the Yadkin River [Index No. 12-(80.5)] from WS-IV CA to WS-IV. A portion of the Yadkin River 0.5 mile upstream of Bashavia Creek was reclassified from WS-IV to WS-IV CA. Bashavia Creek [Index Nos. 12-81-(0.5) and 12-81-(2)] was reclassified from WS-IV and WS-IV CA to Class C. Tributaries to Bashavia Creek were also reclassified to Class C. Portions of the Yadkin River [Index Nos. 12-(25.5) and 12-(27)] were reclassified from WS-IV to Class C and from WS-IV & B to Class B. Tributaries were reclassified from Class WS-IV to Class C. Supplemental classifications were not changed. This amendment was entered into the NC Administrative Code on April 1, 1999, with an equivalent effective date.

~~(o)~~(n) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~is amended for best usage of waters effective July 1, 2006 with the reclassification of a portion of the Uwharrie River. More specifically, Index No. 13-2-(25), Index No. 13-2-(17.5), and a portion of Index No. 13-2-(1.5) was reclassified from Class WS-IV CA, WS-IV, and C, to Class WS-IV B CA, WS-IV B, and B, respectively. This amendment was entered into the NC Administrative Code on July 1, 2006, with an equivalent effective date.

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

River at a point directly above the mouth of Elkin Creek. This amendment was entered into the NC Administrative Code on September 1, 2006, with an equivalent effective date.

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

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

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

This amendment was entered into the NC Administrative Code on November 1, 2007, with an equivalent effective date.

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

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

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

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

This amendment was entered into the NC Administrative Code on March 1, 2025, with an equivalent effective date.

*History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);
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;*
3 *Readopted Eff. November 1, 2019-2019;*
4 *Amended Eff. March 1, 2025.*

Burgos, Alexander N

Subject: FW: [External] RE: 15A NCAC 02B .0309

From: Peaslee, William W <bill.peaslee@oah.nc.gov>

Sent: Saturday, February 15, 2025 12:35 PM

To: Everett, Jennifer <jennifer.everett@deq.nc.gov>

Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Higgins, Karen <karen.higgins@deq.nc.gov>; Liebig, Elizabeth <Elizabeth.Liebig@deq.nc.gov>; Young, Elizabeth S <esyoung@ncdoj.gov>

Subject: RE: [External] RE: 15A NCAC 02B .0309

Thank you for your email.

First, as “best usage” is a defined term, you do not need quotations.

The way the rule is written it reads like the Classification Schedule is being retroactively amended which is not permissible. Ex. (c) The Yadkin-Pee Dee River Basin Classification Schedule **was** amended **for the “best usage” of waters, effective beginning** October 1, 1988 as follows:...

Consider: “The Yadkin-Pee Dee River Basin Classification Schedule is amended as follows:... “

Then, after the numeric listing of amendments, add, “For informational purposed only, this amendment was entered into the North Carolina Code on October 1, 1988 with an equivalent effective date.”

Does this not resolve this issue of the appearance that the language is establishing a retroactive effective date while still preserving the information for the public?

William W. Peaslee

Rules Review Commission Counsel / Legislative Liaison

Office of Administrative Hearings

1711 New Hope Church Road

Raleigh NC, 27609

(984) 236-1939

Bill.Peaslee@oah.nc.gov

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.

Burgos, Alexander N

Subject: FW: [External] RE: 15A NCAC 02B .0309
Attachments: 15A NCAC 02B .0309.doc; Reclass map - portions of Yadkin and S Yadkin.pdf

From: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Sent: Friday, February 14, 2025 5:13 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Higgins, Karen <karen.higgins@deq.nc.gov>; Liebig, Elizabeth <Elizabeth.Liebig@deq.nc.gov>; Young, Elizabeth S <esyoung@ncdoj.gov>
Subject: [External] RE: 15A NCAC 02B .0309

Hi Bill,

Please see agency responses in red below. The re-written rule is attached. We also included a map for the Commission as I know maps are appreciated for the Commission's review.

Thank you.

Jennifer Everett

DEQ Rulemaking Coordinator

N.C. Depart. Of Environmental Quality

Office of General Counsel

1601 Mail Service Center

Raleigh, NC 27699-1601

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

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

4 (a) Classifications assigned to the waters within the Yadkin-Pee Dee River Basin pursuant to Rule .0101 of this
5 Subchapter are set forth in the Yadkin River Basin Classification Schedule, which may be inspected at the following
6 places:

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

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

10 (A) Mooresville Regional Office
11 610 East Center Avenue, Suite 301
12 Mooresville, North Carolina;

13 (B) Winston-Salem Regional Office
14 450 West Hanes Mill Road
15 Winston-Salem, North Carolina;

16 (C) Fayetteville Regional Office
17 225 Green Street
18 Systel Building Suite 714
19 Fayetteville, North Carolina;

20 (D) Asheville Regional Office
21 2090 US Highway 70
22 Swannanoa, North Carolina; and

23 (E) Division of Water Resources
24 Central Office
25 512 North Salisbury Street
26 Raleigh, North Carolina.

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

29 ~~(c) The Yadkin Pee Dee River Basin Classification Schedule was amended effective:~~

30 ~~(1) February 12, 1979;~~

31 ~~(2) March 1, 1983;~~

32 ~~(3) August 1, 1985;~~

33 ~~(4) February 1, 1986;~~

34 ~~(5) October 1, 1988;~~

35 ~~(6) March 1, 1989;~~

36 ~~(7) January 1, 1990;~~

37 ~~(8) August 1, 1990;~~

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

~~(d)(c)~~ The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for the “best usage” of waters, effective beginning October 1, 1988 as follows:

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

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

~~(f)(c)~~ The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for the “best usage” of waters, effective beginning January 1, 1990 as follows: Barnes Creek (Index No. 13-2-18) was reclassified from Class C to Class C ORW.

~~(g)(f)~~ The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for the “best usage” of waters, effective beginning January 1, 1992 as follows:

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

(3) Bridgers Creek (Index No. 13-25-24) from its source to the Little River has been reclassified from Class C to Class C HQW.

~~(h)~~(g) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for the “best usage” of waters, effective beginning April 1, 1992 with the reclassification of the North Prong South Fork Mitchell River from Class C to Class C Trout.

~~(h)~~(h) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for the “best usage” of waters, effective beginning August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

~~(i)~~(i) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for the “best usage” of waters, effective beginning December 1, 1992 as follows:

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

~~(k)~~(j) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for the “best usage” of waters, effective beginning September 1, 1994 as follows:

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

~~(k)~~(k) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for the “best usage” of waters, effective beginning August 1, 1995 as follows: Bear Creek [Index Nos. 12-108-18-(3), 12-108-18-(3.3)], Little Bear

Creek (Index No. 12-108-18-2), and Blue Branch (Index No. 12-108-18-2-1) were reclassified from WS-II and WS-II CA (Critical Area) to C and WS-IV.

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

~~(n)~~(m) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~is amended for the “best usage” of waters, effectivebeginning April 1, 1999 with the reclassification of a portion of the Yadkin River [Index No. 12-(80.5)] from WS-IV CA to WS-IV. A portion of the Yadkin River 0.5 mile upstream of Bashavia Creek was reclassified from WS-IV to WS-IV CA. Bashavia Creek [Index Nos. 12-81-(0.5) and 12-81-(2)] was reclassified from WS-IV and WS-IV CA to Class C. Tributaries to Bashavia Creek were also reclassified to Class C. Portions of the Yadkin River [Index Nos. 12-(25.5) and 12-(27)] were reclassified from WS-IV to Class C and from WS-IV & B to Class B. Tributaries were reclassified from Class WS-IV to Class C. Supplemental classifications were not changed.

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

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

~~(q)~~(p) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~is amended for the “best usage” of waters, effectivebeginning November 1, 2007 with the reclassifications as listed below, and the North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of these UWLs.

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

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

~~(r)~~(q) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~is amended for the “best usage” of waters, ~~effectivebeginning~~ March 1, 2025, ~~for the following waters: [using Paragraphs (20)(c) and (48)(c) of Rule .0202 of this Section, which defined the critical and protected areas a different distance from the intake as adopted by the Commission during the reclassification process as follows:]~~

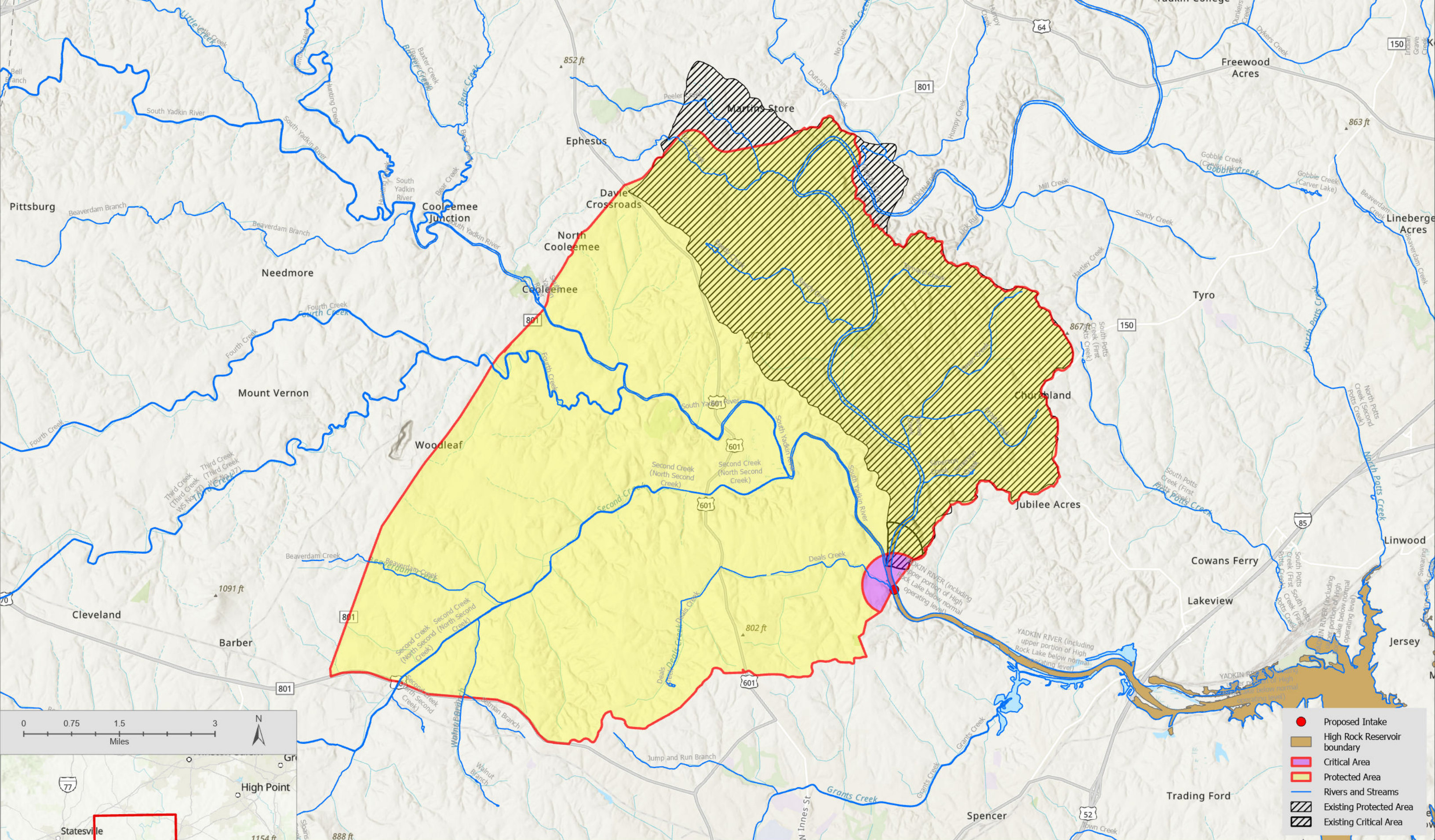
(1) a portion of the Yadkin River Index No. 12-(108.5) from the mouth of the South Yadkin River to a point 125 feet downstream of its confluence with Deals Creek, a portion of Deals Creek Index No. 12-109 from a point 0.7 miles upstream of the mouth of the Yadkin River to the Yadkin River, and

1 a portion of the South Yadkin River Index No. 12-108-(19.5) from a point 0.2 miles upstream of
2 the mouth of the Yadkin River to the Yadkin River, and the watersheds associated with these
3 waterbody [portions] portions, [were]-are reclassified from Class C to Class WS-IV CA;

4 (2) a portion of the Yadkin River Index No. 12-(107.5) from a point 0.7 miles upstream of the mouth
5 of the South Yadkin River to a point 0.2 miles upstream of the mouth of the South Yadkin River, a
6 portion of Deals Creek Index No. 12-109 from its source to a point 0.7 miles upstream of the
7 mouth of the Yadkin River, a portion of Second Creek Index No. 12-108-21 from Highway 70 to
8 the mouth of the South Yadkin River, a portion of Fourth Creek Index No. 12-108-20 from NC
9 801 to the mouth of the South Yadkin River, a portion of South Yadkin River Index No. 12-108-
10 (19.5) from NC 801 to a point 0.2 miles upstream of its confluence with the Yadkin River, and
11 watersheds associated with these waterbody [portions] portions, [were]-are reclassified from Class
12 C to Class WS-IV; and

13 (3) a portion of the Yadkin River Index No. 12-101.5 from a point 1.0 mile upstream of the mouth of
14 Dutchman Creek to Dutchman Creek and its watershed [were] are reclassified from Class WS-IV
15 to Class WS-V.

16
17 *History Note:* Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);
18 Eff. February 1, 1976;
19 Amended Eff. November 1, 2007; September 1, 2006; July 1, 2006; April 1, 1999; August 1, 1998;
20 August 1, 1995; September 1, 1994; April 1, 1993; December 1, 1992;
21 Readopted Eff. November 1, ~~2019~~2019;
22 Amended Eff. March 1, 2025.



Critical and Protected Areas for the Reclassification of Portions of the Yadkin River, South Yadkin River, and Associated Tributaries



Esri, NASA, NGA, USGS, Esri, TomTom, Garmin, FAO, NOAA, USGS, EPA, NPS, USFWS, State of North Carolina DOT, Esri, TomTom, Garmin, SafeGraph, GeoTechnologies, Inc, METI/NASA, USGS, EPA, NPS, USDA, USFWS, Esri, USGS

Created: 6/19/2024 10:27 AM

Burgos, Alexander N

Subject: FW: 15A NCAC 02B .0309

From: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Sent: Friday, February 14, 2025 3:03 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: 15A NCAC 02B .0309

Received! Will be in touch asap!

Jennifer Everett

DEQ Rulemaking Coordinator

N.C. Depart. Of Environmental Quality

Office of General Counsel

1601 Mail Service Center

Raleigh, NC 27699-1601

Tele: (919)-707-8595

<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

Burgos, Alexander N

Subject: FW: 15A NCAC 02B .0309

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, February 14, 2025 2:55 PM
To: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: 15A NCAC 02B .0309

Hi Jennifer,

The effective date of paragraph is not dictated by the language of the rule. It is effective the day it goes into the North Carolina Code. Accordingly, the references to an effective date are unnecessary.

15A NCAC 02B .0202 is a definitions rule. Therefore, statements that a classification schedule is amended “pursuant to Rule .0202 of this Subchapter” introduces words that are contextually unclear and ambiguous.

The rule continues to read like a recitation of the history rather than plainly stating what the current classifications are.

On page 5, lines 6,14, and 17 the agency uses the past tense “were” for new language. Doesn’t the agency mean “are”?

Why is it being written this way?

Thank you in advance for your prompt response.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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.

Burgos, Alexander N

Subject: FW: EMC rules RFC
Attachments: 15A NCAC 02D .0410.docx

From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, February 14, 2025 1:51 PM
To: Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Everett, Jennifer <jennifer.everett@deq.nc.gov>
Subject: FW: EMC rules RFC

Good afternoon,

It is my intention to recommend approval of the attached revised rule at the February RRC meeting.

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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.

Burgos, Alexander N

Subject: FW: EMC rules RFC
Attachments: 02.2025 EMC Response to RFC 02B .0309 02D .0410.docx; 15A NCAC 02B .0309.doc;
15A NCAC 02D .0410.docx

From: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Sent: Friday, February 14, 2025 12:57 PM
To: Peaslee, William W <bill.peaslee@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: Re: EMC rules RFC

Hi Bill,

Attached are agency responses to your requests for technical changes for 15A NCAC 02D and 02B. Also, attached are the re-written rules.

Thank you.

Jennifer

Jennifer Everett

DEQ Rulemaking Coordinator

N.C. Depart. Of Environmental Quality

Office of General Counsel

1601 Mail Service Center

Raleigh, NC 27699-1601

Tele: (919)-707-8595

<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

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Request for Changes Pursuant to N.C. Gen. Stat. § 150B-21.10

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

Questions contained herein suggest that the rule as written is unclear or there is some ambiguity. If this document includes questions and you do not understand the question, please contact the reviewing attorney to discuss. Failure to respond may result in a staff opinion recommending objection.

Staff may suggest the agency "consider" an idea or language in this document. This is in no way a formal request that the agency adopt the idea or language but rather is offered merely for the agency's consideration which the agency may find preferable and clarifying.

To properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov and copy RRC Counsel. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: "aAssociation"
 - Right: "~~association~~ Association"
6. Treat punctuation as part of a word. For example:
 - Wrong: "day;;and"
 - Right: "~~day;~~ day;and"
7. Formatting instructions and examples may be found at:
www.ncoah.com/rules/examples.html

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

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

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0309

DEADLINE FOR RECEIPT: February 14, 2025

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

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

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

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

Agency Response: Requested changes made.

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

Agency Response: Requested changes made.

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

Agency Response: Paragraph (c) was removed as the EMC agrees this paragraph was a recitation of history, rather than truly regulatory. Renumbered Paragraphs (c) through (p) (formerly paragraphs (d) through (q)) set out the currently existing water classifications for the Yadkin-Pee Dee River Basin. The paragraphs are organized by the date on which those classifications became effective, but the classifications under each date are used for regulatory purposes, such as establishing permit limits for wastewater discharge, which may vary based on the water classification of the receiving stream. Language has been added to clarify these paragraphs are more than a recitation of history.

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

William W. Peaslee
Commission Counsel

Date submitted to agency: February 7, 2025

Agency Response: Renumbered Paragraph (q) (formerly paragraph (r)) establishes a new water classification for certain segments of the Yadkin-Pee Dee River Basin, the boundaries of which are described in subparagraphs (q)(1), (2), and (3). The new classifications will be used for regulatory purposes, including establishing permit limits, as described above. Language has been added to clarify these paragraphs are more than a recitation of history.

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

Agency Response: The lines have been re-written as requested.

Page 4, Line 28: I believe you want a comma after “portions.”

Agency Response: Requested changes made.

Page 4, Line 36: I believe you want a comma after “portions.”

Agency Response: Requested changes made.

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

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

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02D .0410

DEADLINE FOR RECEIPT: February 14, 2025

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

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

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

Line 1: Explain the authority of the Commission to establish the “national” primary ambient air quality standards for PM_{2.5}. This term is only used in this Rule.

Agency Response: To align with the other ambient standards in 15A NCAC 02D .0400, the DAQ has removed the term “national” from Paragraph (a) in 15A NCAC 02D .0410.

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

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

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

4 (a) Classifications assigned to the waters within the Yadkin-Pee Dee River Basin pursuant to Rule .0101 of this
5 Subchapter are set forth in the Yadkin River Basin Classification Schedule, which may be inspected at the following
6 places:

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

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

10 (A) Mooresville Regional Office
11 610 East Center Avenue, Suite 301
12 Mooresville, North Carolina;

13 (B) Winston-Salem Regional Office
14 450 West Hanes Mill Road
15 Winston-Salem, North Carolina;

16 (C) Fayetteville Regional Office
17 225 Green Street
18 Systel Building Suite 714
19 Fayetteville, North Carolina;

20 (D) Asheville Regional Office
21 2090 US Highway 70
22 Swannanoa, North Carolina; and

23 (E) Division of Water Resources
24 Central Office
25 512 North Salisbury Street
26 Raleigh, North Carolina.

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

29 ~~(c) The Yadkin Pee Dee River Basin Classification Schedule was amended effective:~~

30 ~~(1) February 12, 1979;~~

31 ~~(2) March 1, 1983;~~

32 ~~(3) August 1, 1985;~~

33 ~~(4) February 1, 1986;~~

34 ~~(5) October 1, 1988;~~

35 ~~(6) March 1, 1989;~~

36 ~~(7) January 1, 1990;~~

37 ~~(8) August 1, 1990;~~

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

~~(d)~~(c) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for the “best usage” of waters, pursuant to Rule .0202 of this Subchapter, effective October 1, 1988 as follows:

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

~~(e)~~(d) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for the “best usage” of waters, pursuant to Rule .0202 of this Subchapter, effective March 1, 1989 as follows: Elk Creek [Index Nos. 12-24-(1) and 12-24-(10)] and all tributary waters were reclassified from Class B-trout, Class C-trout and Class B to Class B-trout ORW, Class C-trout ORW and Class B ORW.

~~(f)~~(e) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for the “best usage” of waters, pursuant to Rule .0202 of this Subchapter, effective January 1, 1990 as follows: Barnes Creek (Index No. 13-2-18) was reclassified from Class C to Class C ORW.

~~(g)~~(f) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for the “best usage” of waters, pursuant to Rule .0202 of this Subchapter, effective January 1, 1992 as follows:

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

(3) Bridgers Creek (Index No. 13-25-24) from its source to the Little River has been reclassified from Class C to Class C HQW.

~~(h)~~(g) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for the “best usage” of waters, pursuant to Rule .0202 of this Subchapter, effective April 1, 1992 with the reclassification of the North Prong South Fork Mitchell River from Class C to Class C Trout.

~~(h)~~(h) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for the “best usage” of waters, pursuant to Rule .0202 of this Subchapter, effective August 3, 1992 with the reclassification of all water supply waters (waters with a primary classification of WS-I, WS-II or WS-III). These waters were reclassified to WS-I, WS-II, WS-III, WS-IV or WS-V as defined in the revised water supply protection rules (15A NCAC 02B .0100, .0200 and .0300), which became effective on August 3, 1992. In some cases, streams with primary classifications other than WS were reclassified to a WS classification due to their proximity and linkage to water supply waters. In other cases, waters were reclassified from a WS classification to an alternate appropriate primary classification after being identified as downstream of a water supply intake or identified as not being used for water supply purposes.

~~(i)~~(i) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for the “best usage” of waters, pursuant to Rule .0202 of this Subchapter, effective December 1, 1992 as follows:

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

~~(j)~~(j) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for the “best usage” of waters, pursuant to Rule .0202 of this Subchapter, effective September 1, 1994 as follows:

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

~~(k)~~(k) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~ amended for the “best usage” of waters, pursuant to Rule .0202 of this Subchapter, effective August 1, 1995 as follows: Bear Creek [Index Nos. 12-108-18-

(3), 12-108-18-(3.3)], Little Bear Creek (Index No. 12-108-18-2), and Blue Branch (Index No. 12-108-18-2-1) were reclassified from WS-II and WS-II CA (Critical Area) to C and WS-IV.

~~(m)~~(l) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~is amended for the “best usage” of waters, pursuant to Rule .0202 of this Subchapter, effective August 1, 1998 with the revision to the primary classification for portions of the Yadkin River [Index No. 12-(45)] from Class WS-IV to WS-V, Yadkin River [Index No. 12-(67.5)] from Class WS-IV to Class C, Yadkin River [Index Nos. 12-(93.5) and 12-(98.5)] from Class WS-IV to Class WS-V, South Yadkin River [Index No. 12-108-(12.5)] from Class WS-IV to Class WS-V, and South Yadkin River [Index Nos. 12-108-(19.5) and 12-108-(22)] from Class WS-IV to Class C.

~~(n)~~(m) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~is amended for the “best usage” of waters, pursuant to Rule .0202 of this Subchapter, effective April 1, 1999 with the reclassification of a portion of the Yadkin River [Index No. 12-(80.5)] from WS-IV CA to WS-IV. A portion of the Yadkin River 0.5 mile upstream of Bashavia Creek was reclassified from WS-IV to WS-IV CA. Bashavia Creek [Index Nos. 12-81-(0.5) and 12-81-(2)] was reclassified from WS-IV and WS-IV CA to Class C. Tributaries to Bashavia Creek were also reclassified to Class C. Portions of the Yadkin River [Index Nos. 12-(25.5) and 12-(27)] were reclassified from WS-IV to Class C and from WS-IV & B to Class B. Tributaries were reclassified from Class WS-IV to Class C. Supplemental classifications were not changed.

~~(o)~~(n) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~is amended for the “best usage” of waters, pursuant to Rule .0202 of this Subchapter, effective July 1, 2006 with the reclassification of a portion of the Uwharrie River. More specifically, Index No. 13-2-(25), Index No. 13-2-(17.5), and a portion of Index No. 13-2-(1.5) was reclassified from Class WS-IV CA, WS-IV, and C, to Class WS-IV B CA, WS-IV B, and B, respectively.

~~(p)~~(o) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~is amended for the “best usage” of waters, pursuant to Rule .0202 of this Subchapter, effective September 1, 2006 with the reclassification of a segment of the Yadkin River [portion of Index No. 12-(53)] from a point 0.3 mile upstream of the Town of Elkin proposed water supply intake to the Town of Elkin proposed water supply intake from C to WS-IV CA. The Town of Elkin proposed water supply intake is to be placed on the Yadkin River at a point directly above the mouth of Elkin Creek.

~~(q)~~(p) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~is amended for the “best usage” of waters, pursuant to Rule .0202 of this Subchapter, effective November 1, 2007 with the reclassifications as listed below, and the North Carolina Division of Water Resources maintains a Geographic Information Systems data layer of these UWLs.

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

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

~~(r)~~(q) The Yadkin-Pee Dee River Basin Classification Schedule ~~was~~is amended for the “best usage” of waters, pursuant to Rule .0202 of this Subchapter, effective March 1, 2025, for the following waters: ~~using Paragraphs (20)(e) and (48)(e) of Rule .0202 of this Section, which defined the critical and protected areas a different distance from the intake as adopted by the Commission during the reclassification process as follows:]~~

- (1) a portion of the Yadkin River Index No. 12-(108.5) from the mouth of the South Yadkin River to a point 125 feet downstream of its confluence with Deals Creek, a portion of Deals Creek Index No. 12-109 from a point 0.7 miles upstream of the mouth of the Yadkin River to the Yadkin River, and a portion of the South Yadkin River Index No. 12-108-(19.5) from a point 0.2 miles upstream of the mouth of the Yadkin River to the Yadkin River, and the watersheds associated with these waterbody [portions] portions, were reclassified from Class C to Class WS-IV CA;
- (2) a portion of the Yadkin River Index No. 12-(107.5) from a point 0.7 miles upstream of the mouth of the South Yadkin River to a point 0.2 miles upstream of the mouth of the South Yadkin River, a portion of Deals Creek Index No. 12-109 from its source to a point 0.7 miles upstream of the mouth of the Yadkin River, a portion of Second Creek Index No. 12-108-21 from Highway 70 to the mouth of the South Yadkin River, a portion of Fourth Creek Index No. 12-108-20 from NC 801 to the mouth of the South Yadkin River, a portion of South Yadkin River Index No. 12-108-(19.5) from NC 801 to a point 0.2 miles upstream of its confluence with the Yadkin River, and watersheds associated with these waterbody [portions] portions, were reclassified from Class C to Class WS-IV; and
- (3) a portion of the Yadkin River Index No. 12-101.5 from a point 1.0 mile upstream of the mouth of Dutchman Creek to Dutchman Creek and its watershed were reclassified from Class WS-IV to Class WS-V.

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

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

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

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

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

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

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

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

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

16 *Eff. April 1, 1999;*

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

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

19 *Amended Eff. March 1, 2025*

Burgos, Alexander N

From: Everett, Jennifer
Sent: Friday, February 7, 2025 10:45 AM
To: Peaslee, William W
Cc: Burgos, Alexander N
Subject: RE: EMC rules RFC

Bill,

Received, thanks and have a nice weekend!

Jennifer Everett
DEQ Rulemaking Coordinator
N.C. Depart. Of Environmental Quality
Office of General Counsel
1601 Mail Service Center
Raleigh, NC 27699-1601
Tele: (919)-707-8595
<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

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From: Peaslee, William W <bill.peaslee@oah.nc.gov>
Sent: Friday, February 7, 2025 10:40 AM
To: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: EMC rules RFC

Good morning Jennier,

Attached please find the request for changes for the EMC rules to be considered at the February RRC meeting.

As always if you have any questions or concerns please feel free to contact me.

Have a good weekend.

Bill

William W. Peaslee
Rules Review Commission Counsel / Legislative Liaison
Office of Administrative Hearings
1711 New Hope Church Road
Raleigh NC, 27609
(984) 236-1939
Bill.Peaslee@oah.nc.gov

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