

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

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0219

DEADLINE FOR RECEIPT: October 16, 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:

Regarding item (3)(a), lines 17-24, “to the satisfaction of the Commission” considering the “quality and quantity of the sewage” seems like a potentially vague standard. Can you provide additional context for what the standard is here? Or the processes the Commission is using to make this determination?

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 .0219 is amended as published in 39:17 NCR 11-13 as follows:

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

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

7 (1) The best usage of Class B waters shall be primary contact recreation and any other best usage
8 specified for Class C waters.

9 (2) Class B waters shall meet the standards of water quality for outdoor bathing places as specified in
10 Item (3) of this Rule and shall be of sufficient size and depth for primary contact recreation. In
11 assigning the B classification to waters intended for primary contact recreation, the Commission
12 shall consider the relative proximity of sources of water pollution and the potential hazards
13 involved in locating swimming areas close to sources of water pollution and shall not assign this
14 classification to waters in which such water pollution could result in a hazard to public health.
15 Sources of water pollution that preclude any of these uses on either a short-term or long-term basis
16 shall be deemed to violate a water quality standard.

17 (3) Quality standards applicable to Class B waters:

18 (a) Sewage, industrial wastes, or other wastes: none shall be allowed that are not treated to
19 the satisfaction of the Commission. In determining the degree of treatment required for
20 such waste when discharged into waters to be used for bathing, the Commission shall
21 consider the quality and quantity of the sewage and wastes involved and the proximity of
22 such discharges to waters in this class. Discharges in the immediate vicinity of bathing
23 areas shall not be allowed if the Director determines that the waste cannot be treated to
24 ensure the protection of primary contact recreation;

25 (b) ~~Fecal coliforms~~ Escherichia coli shall not exceed a geometric mean of ~~200~~126/100 ml
26 (~~MF count~~ colony forming units or most probable number) based on at least five samples
27 taken over a 30 day ~~period, period, nor~~ Escherichia coli also shall not exceed ~~400~~274/100
28 ml (colony forming units or most probable number) in more than 20 percent of the
29 samples examined during such period.

30 (4) Wastewater discharges to waters classified as B shall meet the reliability requirements specified in
31 15A NCAC 02H .0124. Discharges to waters where a primary contact recreational use is
32 determined by the Director to be attainable shall be required to meet water quality standards and
33 reliability requirements to protect this use concurrently with reclassification efforts.

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35 *History Note: Authority G.S. 143-214.1; 143-215.3(a)(1);*

36 *Eff. January 1, 1990;*

37 *Amended Eff. October 1, 1995;*

- 1 *Readopted Eff. November 1, 2019;*
- 2 *Amended Eff. November 1, 2025; June 1, 2022.*

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

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0226

DEADLINE FOR RECEIPT: October 16, 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:

The statutory citations on line 5 are missing a hyphen. Please correct.

Are the standards in 40 CFR 131.14 and 40 CFR 131.10 incorporated somewhere?

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 .0226 is amended as published in 39:17 NCR 11-13 as follows:**

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3 **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
5 may be granted by the Commission on a case-by-case basis pursuant to G.S. 143215.3(e), 143214.3 or 143214.1. In
6 addition, variances from applicable standards shall meet the requirements set forth in 40 CFR 131.14. A listing of
7 existing variances shall be maintained and made available to the public by the Division. Exemptions established
8 pursuant to this Rule shall be reviewed as part of the Triennial Review of Water Quality Standards conducted
9 pursuant to 40 CFR 131.10(g).

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11 *History Note: Authority G.S. 143-214.1; 143-214.3; 143-215.3(e);*

12 *Eff. October 1, 1995;*

13 *Readopted Eff. November 1, ~~2019~~ 2019;*

14 *Amended Eff. November 1, 2025.*