

1 15A NCAC 2B .0202 is proposed for amendment as follows:

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3 **15A NCAC 02B .0202 DEFINITIONS**

4 The definition of any word or phrase used in this Section shall be the same as given in G.S. 143, Article 21. The
5 following words and phrases shall be defined as follows:

- 6 (1) "Acute toxicity to aquatic life" means lethality or other harmful effects sustained by either resident
7 aquatic populations or indicator species used as test organisms in a controlled toxicity test due to a
8 short-term exposure (relative to the life cycle of the organism) of 96 hours or less to a specific
9 chemical or mixture of chemicals (as in an effluent). Acute toxicity shall be determined using the
10 following procedures:
- 11 (a) for specific chemical constituents or compounds, acceptable levels shall be equivalent to
12 a concentration of one-half or less of the Final Acute Value (FAV) as determined
13 according to "Guidelines for Deriving Numerical Water Quality Criteria for the
14 Protection of Aquatic Life and its Uses" published by the Environmental Protection
15 Agency and referenced in the Federal Register (50 FR 30784, July 29, 1985) which is
16 incorporated by reference including subsequent amendments and editions.
 - 17 (b) for specific chemical constituents or compounds for which values described under Sub-
18 Item (a) of this Item cannot be determined, acceptable levels shall be equivalent to a
19 concentration of one-third or less of the lowest available LC50 value.
 - 20 (c) for effluents, acceptable levels shall be defined as no statistically measurable lethality (99
21 percent confidence level using Student's t-test) during a specified exposure period.
22 Concentrations of exposure shall be based on permit requirements and procedures in
23 accordance with 15A NCAC 02H .1110.
 - 24 (d) in instances where detailed dose response data indicate that levels of acute toxicity are
25 different from those defined in this Rule, the Director may determine on a case-by-case
26 basis an alternate acceptable level through statistical analyses of the dose response in
27 accordance with 15A NCAC 02H .1110.
- 28 (2) "Acute to Chronic Ratio" or "ACR" means the ratio of acute toxicity expressed as an LC50 for a
29 specific toxicant or an effluent to the chronic value for the same toxicant or effluent.
- 30 (3) "Agricultural uses" means the use of waters for stock watering, irrigation, and other farm
31 purposes.
- 32 (4) "Applicator" means any person, firm, corporation, wholesaler, retailer, or distributor; any local,
33 State, or federal governmental agency; or any other person who applies fertilizer to the land of a
34 consumer or client or to land that they own, lease, or otherwise hold rights.
- 35 (5) "Approved treatment," as applied to water supplies, means treatment approved by the Division in
36 accordance with 15A NCAC 18C .0301 through .0309, as authorized by G.S. 130A-315 and G.S.
37 130A-317.

- (6) "Attainable water uses" means uses that can be achieved by the imposition of effluent limits and cost effective and reasonable best management practices (BMP) for nonpoint source control.
- (7) "Available cyanide" means inorganic cyanides that are free (HCN and CN^-) and metal-cyanide complexes that are dissociated into free cyanide ions under mildly acidic conditions (pH 3 to 6).
- (8) "Average" means the arithmetical average of the analytical results of all representative samples taken under prevailing environmental conditions during a specified period (for example: daily, weekly, or monthly).
- (9) "Best Management Practice" or "BMP" means a structural or nonstructural management-based practice used singularly or in combination to reduce point source or nonpoint source inputs to receiving waters in order to achieve water quality protection goals.
- (10) "Best usage" or "Best use" of waters, as specified for each class, means those uses as determined by the Environmental Management Commission in accordance with the provisions of G.S. 143-214.1.
- (11) "Bioaccumulation factor" or "BAF" means a unitless value that describes the degree to which substances are taken up or accumulated into tissues of aquatic organisms from water directly and from food or other ingested materials containing the accumulated substances, and is measured as a ratio of a substance's concentration in tissue versus its concentration in water in situations where exposure to the substance occurs from both water and the food chain.
- (12) "Bioconcentration factor" or "BCF" means a unitless value that describes the degree to which substances are absorbed or concentrated into tissues of aquatic organisms from water directly and is measured as a ratio of substance's concentration in tissue versus its concentration in water in situations where exposure to the substance occurs from water only.
- (13) "Biological integrity" means the ability of an aquatic ecosystem to support and maintain a balanced and indigenous community of organisms having species composition, diversity, population densities, and functional organization similar to that of reference conditions.
- (14) "Buffer" means a natural or vegetated area through which stormwater runoff flows in a diffuse manner so that the runoff does not become channelized and which provides for infiltration of the runoff and filtering of pollutants.
- (15) "Chronic toxicity to aquatic life" means any harmful effect sustained by either resident aquatic populations or indicator species used as test organisms in a controlled toxicity test due to long-term exposure (relative to the life cycle of the organism) or exposure during a substantial portion of the duration of a sensitive period of the life cycle to a specific chemical substance or mixture of chemicals (as in an effluent). In absence of extended periods of exposure, early life stage or reproductive toxicity tests may be used to define chronic impacts.
- (16) "Chronic value for aquatic life" means the geometric mean of two concentrations identified in a controlled toxicity test as the No Observable Effect Concentration (NOEC) and the Lowest Observable Effect Concentration (LOEC).

- (17) "Commercial applicator" means any person, firm, corporation, wholesaler, retailer, distributor, or any other person who for hire or compensation applies fertilizer to the land of a consumer or client.
- (18) "Concentration" means the mass of a substance per volume of water and, for the purposes of this Section, shall be expressed as milligrams per liter (mg/l), micrograms per liter (ug/l), or nanograms per liter (ng/l).
- (19) "Contiguous" means those wetlands landward of the mean high water line or normal water level and within 575 feet of classified surface waters that appear as solid blue lines on the most recently published versions of U.S.G.S. 1:24,000 (7.5 minute) scale topographic maps, which are available at no cost at <http://www.usgs.gov/pubprod/>.
- (20) "Critical area" means the area adjacent to a water supply intake or reservoir where risk associated with pollution is greater than risk associated with pollution from the remaining portions of the watershed. The boundary of a critical area is defined as:
- (a) extending either 1/2 mile in a straight line fashion upstream from and draining to the normal pool elevation of the reservoir in which the intake is located or to the ridge line of the watershed, whichever is nearest the normal pool elevation of the reservoir;
 - (b) extending either 1/2 mile in a straight line fashion upstream from and draining to the intake (or other appropriate downstream location associated with the water supply) located directly in the stream or river (run-of-the-river) or to the ridge line of the watershed, whichever is nearest the intake; or
 - (c) extending a different distance from the reservoir or intake as adopted by the Commission during the reclassification process pursuant to Rule .0104 of this Subchapter.
- Since WS-I watersheds are essentially undeveloped, establishment of a critical area is not required.
- (21) "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) "Designated Nonpoint Source Agency" means an agency specified by the Governor in the North Carolina Nonpoint Source Management Program, as approved by the Environmental Protection Agency pursuant to the 1987 amendments to the federal Clean Water Act 33 U.S.C. 1329 that established Section 319 Nonpoint source management programs.
- (23) "Director" means the Director of the Division.
- (24) "Discharge" means the addition of any man-induced waste effluent either directly or indirectly to State surface waters.
- (25) "Division" means the Division of Water Resources or its successors.
- (26) "Domestic wastewater discharge" means the discharge of sewage, non-process industrial wastewater, other domestic wastewater, or any combination of these items. Domestic wastewater

1 includes, but is not limited to, liquid waste generated by domestic water using fixtures and
2 appliances from any residence, place of business, or place of public assembly, even if it contains
3 no sewage. Examples of domestic wastewater include once-through non-contact cooling water,
4 seafood packing facility discharges, and wastewater from restaurants.

5 (27) "Effluent channel" means a discernable confined and discrete conveyance that is used for
6 transporting treated wastewater to a receiving stream or other body of water, as provided in Rule
7 .0228 of this Section.

8 (28) "Existing uses" mean uses actually attained in the water body on or after November 28, 1975,
9 whether or not they are included in the water quality standards.

10 (29) "Fertilizer" means any substance containing nitrogen or phosphorus that is used primarily as plant
11 food.

12 (30) "Fishing" means the taking of fish by recreational or commercial methods, the consumption of fish
13 or shellfish, the propagation of fish, or the propagation of other aquatic life as is necessary to
14 protect the biological integrity of the environment for fish.

15 (31) "Forest vegetation" means the plants of an area that grow in disturbed or undisturbed conditions in
16 wooded plant communities in any combination of trees, saplings, shrubs, vines, and herbaceous
17 plants, including mature and successional forests and cutover stands.

18 (32) "Freshwater" means all waters that under natural conditions have a chloride ion content of 500
19 mg/l or less.

20 (33) "Industrial discharge" means the discharge of industrial process treated wastewater or wastewater
21 other than sewage. Stormwater shall not be considered to be an industrial wastewater unless it is
22 contaminated with industrial wastewater. Industrial discharge includes:

23 (a) wastewater resulting from any process of industry or manufacture or from the
24 development of any natural resource;

25 (b) wastewater resulting from processes of trade or business, including wastewater from
26 laundromats and car washes, but not wastewater from restaurants; and

27 (c) for the purpose of prohibiting discharges to waters classified as Water Supply (WS) in
28 accordance with Rules .0212, .0214, .0215, .0216, and .0218 of this Section, wastewater
29 discharged from a municipal wastewater treatment plant required to administer a
30 pretreatment program pursuant to 15A NCAC 02H .0904.

31 (34) "Land-disturbing activity" means any use of the land that results in a change in the natural cover
32 or topography that may cause or contribute to sedimentation.

33 (35) "LC50" means that concentration of a toxic substance that is lethal or immobilizing to 50 percent
34 of the sensitive aquatic toxicity testing species tested during a specified exposure period, as
35 required by NPDES permit, under aquatic conditions characteristic of the receiving waters.
36 Sensitive species for aquatic toxicity testing is defined by Subparagraph (50) of this Rule.

- (36) "Lentic" means an aquatic ecosystem with standing or slow flowing water such as a lake, pond, or reservoir.
- (37) "Local government" means a city or county in singular or plural as defined in G.S. 160A-1(2) and G.S. 158A-10.
- (38) "Lotic" means an aquatic ecosystem with rapidly flowing water such as a stream or river.
- (39) "Lower piedmont and coastal plain waters" means those waters of the Catawba River Basin below Lookout Shoals Dam; the Yadkin River Basin below the junction of the Forsyth, Yadkin, and Davie County lines; and all of the waters of Cape Fear, Lumber, Roanoke, Neuse, Tar-Pamlico, Chowan, Pasquotank, and White Oak River Basins; except tidal salt waters which are assigned S classifications.
- (40) "MF" means the membrane filter procedure for bacteriological analysis.
- (41) "Mixing zone" means a region of the receiving water in the vicinity of a discharge within which dispersion and dilution of constituents in the discharge occurs. Zones shall be subject to conditions established in accordance with Rule .0204(b) of this Section.
- (42) "Mountain and upper piedmont waters" means all of the waters of the Hiwassee; Little Tennessee, including the Savannah River drainage area; French Broad; Broad; New; and Watauga River Basins; and those portions of the Catawba River Basin above Lookout Shoals Dam and the Yadkin River Basin above the junction of the Forsyth, Yadkin, and Davie County lines.
- (43) "Nonpoint source pollution" means pollution that enters waters mainly as a result of precipitation and subsequent runoff from lands that have been disturbed by man's activities and includes all sources of water pollution that are not required to have a permit in accordance with G.S. 143-215.1(c).
- (44) "Non-process discharge" means industrial effluent not directly resulting from the manufacturing process. An example is non-contact cooling water from a compressor.
- (45) "Offensive condition" means any condition or conditions resulting from the presence of sewage, industrial wastes, or other wastes within the waters of the State or along the shorelines thereof that shall either directly or indirectly cause foul or noxious odors, unsightly conditions, or breeding of abnormally large quantities of mosquitoes or other insect pests; damage private or public water supplies or other structures; result in the development of gases which destroy or damage surrounding property, herbage, or grasses; cause the impairment of taste such as from fish flesh tainting; or affect the health of any person residing or working in the area.
- (46) "Primary contact recreation" means swimming, diving, skiing, and similar uses involving human body contact with water where such activities take place in an organized or on a frequent basis.
- (47) "Primary nursery area" or "PNA" means tidal saltwaters that provide essential habitat for the early development of commercially important fish and shellfish and are so designated by the Marine Fisheries Commission.

- 1 (48) "Protected area" means the area adjoining and upstream of the critical area in a WS-IV water
2 supply in which protection measures are required. The boundary of a protected area is defined as:
- 3 (a) extending either five miles in an as-the-river-runs manner upstream from and draining to
4 the normal pool elevation of the reservoir in which the intake is located or to the ridge
5 line of the watershed, whichever is nearest the normal pool elevation of the reservoir;
- 6 (b) extending either 10 miles in an as-the-river-runs manner upstream from and draining to
7 the intake located directly in the stream or river run-of-the-river or to the ridge line of the
8 watershed, whichever is nearest the intake. In some cases the protected area shall
9 encompass the entire watershed; or
- 10 (c) extending a different distance from the reservoir or intake as adopted by the Commission
11 during the reclassification process pursuant to Rule .0104 of this Subchapter.
- 12 (49) "Residential development" means buildings for residence such as attached and detached single
13 family dwellings, apartment complexes, condominiums, townhouses, cottages, and their
14 associated outbuildings such as garages, storage buildings, and gazebos.
- 15 (50) "Residuals" has the same meaning as in 15A NCAC 02T .0103.
- 16 (51) "Riparian area" means an area that is adjacent to a body of water.
- 17 (52) "Secondary contact recreation" means wading, boating, other uses not involving human body
18 contact with water, and activities involving human body contact with water where such activities
19 take place on an infrequent, unorganized, or incidental basis.
- 20 (53) "Sensitive species for aquatic toxicity testing" means any species utilized in procedures accepted
21 by the Commission or its designee in accordance with Rule .0103 of this Subchapter, and the
22 following genera:
- 23 (a) Arbacia;
- 24 (b) Ceriodaphnia;
- 25 (c) Champia;
- 26 (d) Chironomus;
- 27 (e) Cyprinodon;
- 28 (f) Daphnia;
- 29 (g) Hyalella;
- 30 (h) Lumbriculus;
- 31 (i) Menidia;
- 32 (j) Mysidopsis;
- 33 (k) Notropis;
- 34 (l) Oncorhynchus;
- 35 (m) Penaeus;
- 36 (n) Pimephales;
- 37 (o) Salmo;

- (p) Salvelinus;
- (q) Selenastrum.
- (54) "Shellfish culture" means the use of waters for the propagation, storage, and gathering of oysters, clams, and other shellfish for market purposes.
- (55) "Swamp waters" means those waters that are classified as such by the Environmental Management Commission, pursuant to Rule .0101 of this Subchapter, and that have natural characteristics due to topography, such as low velocity, dissolved oxygen, or pH, that are different from streams draining steeper topography.
- (56) "Tidal salt waters" means all waters that have a natural chloride ion content in excess of 500 parts per million.
- (57) "Toxic substance" or "Toxicant" means any substance or combination of substances (including disease-causing agents) that, after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, has the potential to cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions or suppression in reproduction or growth), or physical deformities in such organisms or their offspring.
- (58) "Trout waters" means those waters that are classified as such by the Environmental Management Commission, pursuant to Rule .0101 of this Subchapter, and have conditions that sustain and allow for natural trout propagation and survival and for year-round maintenance of stocked trout.
- (59) "Water dependent structures" means those structures that require access or proximity to or siting within surface waters to fulfill its purpose, such as boat ramps, boat houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies, parking lots, and commercial boat storage areas are not water dependent structures.
- (60) "Water quality based effluent limits (or limitations) and management practices" mean limits and practices developed by the Division to protect water quality standards and best uses of surface waters, consistent with the requirements of G.S. 143-214.1 and the federal Water Pollution Control Act, as amended.
- (61) "Waters with quality higher than the standards" means waters that the Director determines (pursuant to Rule .0206 of this Section) have the capacity to receive additional pollutant loading and continue to meet applicable water quality standards.
- (62) "Watershed" means a natural area of drainage, including all tributaries contributing to the supply of at least one major waterway within the State, the specific limits of each separate watershed to be designated by the Commission as defined by G.S. 143-213(21).
- (63) "WER" or "Water effect ratio" expresses the difference between the measures of the toxicity of a substance in laboratory waters and the toxicity in site water.
- (64) "Wetlands" are "waters" as defined by G.S. 143-212(6) that are inundated or saturated by an accumulation of surface or ground water at a frequency and duration sufficient to support, and that

1 under normal circumstances do support, a prevalence of vegetation typically adapted for life in
2 saturated soil conditions. Wetlands classified as waters of the State are restricted to waters of the
3 United States as defined by 33 C.F.R. 328.3 and 40 C.F.R. 230.3. Wetlands do not include prior
4 converted cropland as defined in the National Food Security Act Manual, Fifth Edition, which is
5 hereby incorporated by reference, not including subsequent amendments and editions, and is
6 available free of charge at <https://directives.sc.egov.usda.gov/RollupViewer.aspx?hid=29340>.

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8 *History Note:* *Authority G.S. 143-213; 143-214.1; 143-215.3(a)(1); S.L. 2023-63*
9 *Eff. February 1, 1976;*
10 *Amended Eff. August 1, 1995; February 1, 1993; August 3, 1992; August 1, 1990;*
11 *RRC Objection Eff. July 18, 1996 due to lack of authority and ambiguity;*
12 *Amended Eff. August 1, 1998; October 1, 1996;*
13 *Readopted Eff. November 1, 2019;*
14 *Amended Eff. June 1, 2022.*
15 *Amended Eff. Pending Legislative Review.*