

SECTION .0200 - CLASSIFICATIONS AND WATER QUALITY STANDARDS APPLICABLE TO SURFACE WATERS AND WETLANDS OF NORTH CAROLINA

15A NCAC 02B .0201 ANTIDegradation Policy

(a) The requirements for the antidegradation policy and implementation methods in 40 CFR 131.12 are incorporated by reference including subsequent amendments and editions. This material is available for inspection at the Department of Environmental Quality, Division of Water Resources, 512 North Salisbury Street, Raleigh, North Carolina, 27604-1170. A copy of the most current version of 40 CFR 131.12 is available free of charge at <https://www.govinfo.gov>. These requirements shall be implemented in North Carolina as set forth in this Rule.

(b) The Commission shall protect existing uses, as defined by Rule .0202 of this Section, and the water quality to protect such uses by classifying surface waters and having standards sufficient to protect these uses. In cases where the Commission or its designee determines that an existing use is not included in the classification of waters in accordance with Rule .0101(b)(1) of this Subchapter, a project that affects these waters shall not be permitted unless the existing uses are protected.

(c) The Commission shall consider the present and anticipated usage of waters with quality higher than the standards, including any uses not specified by the assigned classification (such as outstanding national resource waters or waters of exceptional water quality), and shall not allow degradation of the quality of waters with quality higher than the standards below the water quality necessary to maintain existing and anticipated uses of those waters. Waters with quality higher than the standards are defined by Rule .0202 of this Section. The following procedures shall be implemented in order to meet the requirements of this Rule:

- (1) Each applicant for an National Pollutant Discharge Elimination System (NPDES) permit or NPDES permit expansion to discharge treated waste shall document non-discharge alternatives considered pursuant to 15A NCAC 02H .0105(c)(2).
- (2) Public Notices for NPDES permits shall list parameters that would be water quality limited and state whether the discharge will use the entire available load capacity of the receiving waters and may, as a result, cause more stringent water quality based effluent limitations to be established for dischargers downstream.
- (3) 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.
- (4) Local governments shall have the option to work with the Commission and Division to identify and develop management strategies or classifications for waters with unused pollutant loading capacity to accommodate future economic growth.

Waters with quality higher than the standards shall be identified by the Division on a case-by-case basis through the NPDES permitting and waste load allocation processes, pursuant to the provisions of 15A NCAC 02H .0100. Dischargers affected by the requirements of this Paragraph and the public at large shall be notified according to the provisions described herein and all other appropriate provisions pursuant to 15A NCAC 02H .0109. If an applicant objects to the requirements to protect waters with quality higher than the standards and believes degradation is necessary to accommodate important social and economic development, the applicant may contest these requirements according to the provisions of G.S. 143-215.1(e) and 150B-23.

(d) The Commission shall consider the present and anticipated uses of High Quality Waters (HQW), including any uses not specified by the assigned classification (such as outstanding national resource waters or waters of exceptional water quality) and shall not allow degradation of the quality of High Quality Waters below the water quality necessary to maintain existing and anticipated uses of those waters pursuant to Rule .0224 of this Section.

(e) The water quality of waters classified as Outstanding Resource Waters (ORW), as described in Rule .0225 of this Section, shall be maintained such that existing uses, including the outstanding resource values of said Outstanding Resource Waters, are maintained and protected.

(f) Activities regulated under Section 404 of the federal Clean Water Act 33 U.S.C. 1344 that require a water quality certification as described in Section 401 of the federal Clean Water Act 33 U.S.C. 1341 shall be evaluated according to the procedures outlined in 15A NCAC 02H .0500. Activities that receive a water quality certification pursuant to the procedures in 15A NCAC 02H .0500 shall not be considered to remove existing uses. The evaluation of permits issued pursuant to G.S. 143-215.1 that involve the assimilation of wastewater or stormwater by wetlands shall incorporate the criteria found in 15A NCAC 02H .0506(c)(1) through (5) in determining the potential impact of the proposed activity on the existing uses of the wetland as described in Rule .0231(a) of this Section.

History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1);

Eff. February 1, 1976;
Amended Eff. October 1, 1995; August 1, 1995; February 1, 1993; April 1, 1991; August 1, 1990;
RRC Objection Eff. July 18, 1996 due to lack of statutory authority and ambiguity;
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