

15A NCAC 02B .0225 WATER QUALITY STANDARDS FOR OUTSTANDING RESOURCE WATERS

(a) The Commission shall classify surface waters of the State as outstanding resource waters (ORW) upon finding, on a case-by-case basis, that such waters are of exceptional State or national recreational or ecological significance that require additional protection to maintain existing uses, as described in this Rule, and that the waters meet the following conditions:

- (1) the water quality is rated as excellent based on physical, chemical or biological information; and
- (2) the characteristics that make these waters of exceptional State or national recreational or ecological significance may not be protected by the assigned narrative and numerical water quality standards.

(b) For purposes of this Rule, a water body shall be deemed to be of exceptional State or national recreational or ecological significance if it exhibits one or more of the following ORW uses:

- (1) there are outstanding fish or commercially-important aquatic species habitat and fisheries;
- (2) there is a high level of water-based recreation or the potential for such recreation;
- (3) the waters have received a designation such as a North Carolina or National Wild and Scenic River or a National Wildlife Refuge, which do not provide any water quality protection;
- (4) the waters represent an important component of a State or national park or forest; or
- (5) the waters are of ecological or scientific significance, such as habitat for rare or endangered species or as areas for research and education.

(c) Quality Standards for ORW.

- (1) Freshwater: Water quality conditions shall be maintained to protect the outstanding resource values of waters classified ORW. Management strategies to protect resource values shall be developed on a site-specific basis during the proceedings to classify waters as ORW in accordance with Rule .0101 of the Subchapter. No new discharges or expansions of existing discharges shall be permitted, and stormwater controls for all new development activities requiring an Erosion and Sedimentation Control Plan in accordance with rules established by the NC Sedimentation Control Commission shall comply with the stormwater provisions set forth in 15A NCAC 02H .1000, including the specific stormwater management requirements for freshwater ORW areas set forth in 15A NCAC 02H .1019 and .1021.
- (2) Saltwater: Water quality conditions shall be maintained to protect the outstanding resource values of waters classified ORW. Management strategies to protect resource values shall be developed on a site-specific basis during the proceedings to classify waters as ORW in accordance with Rule .0101 of this Subchapter. New development shall comply with the stormwater provisions set forth in 15A NCAC 02H .1000, including the specific stormwater management requirements for saltwater ORW areas set forth in 15A NCAC 02H .1019 and .1021. No dredge or fill activities shall be allowed if those activities would result in a reduction of the beds of "submerged aquatic vegetation habitat" or "shellfish producing habitat," defined in 15A NCAC 03I .0101, and incorporated by reference including subsequent amendments and editions, except for maintenance dredging, such as that required to maintain access to existing channels and facilities located within the designated areas, or maintenance dredging for activities such as agriculture. The Commission shall hold a public hearing before granting a permit to discharge to waters classified as ORW.

Additional, site-specific actions to protect resource values shall be considered during the proceedings to classify waters as ORW and shall be specified in Paragraph (d) of this Rule. These actions may include anything within the powers of the Commission, as set forth in G.S. 143-21 and G.S. 143B-282. The Commission shall also consider local actions that have been taken to protect a water body in determining the additional, site-specific actions.

(d) Listing of Waters Classified ORW with Specific Actions.

- (1) Roosevelt Natural Area [White Oak River Basin, Index Nos. 20-36-9.5-(1) and 20-36-9.5-(2)], including all fresh and saline waters within the property boundaries of the natural area: New development on a site within 575 feet of and naturally draining to the Roosevelt Natural Area shall comply with the low density option in the stormwater rules set forth in 15A NCAC 02H .1019.
- (2) Chattooga River ORW Area (Little Tennessee River Basin and Savannah River Drainage Area): the following undesignated waterbodies that are tributary to ORW designated segments shall comply with Subparagraph (c)(1) of this Rule in order to protect the designated waters as per Rule .0203 of this Section. However, expansions of existing discharges to the following segments shall be allowed if there is no increase in pollutant loading:
 - (A) North and South Fowler Creeks and associated tributaries;
 - (B) Green and Norton Mill Creeks and associated tributaries;

- (C) Cane Creek and associated tributaries;
 - (D) Ammons Branch and associated tributaries; and
 - (E) Glade Creek and associated tributaries.
- (3) Henry Fork ORW Area (Catawba River Basin): the following undesignated waterbodies that are tributary to ORW designated segments shall comply with Subparagraph (c)(1) of this Rule in order to protect the designated waters as per Rule .0203 of this Section:
- (A) Ivy Creek and associated tributaries; and
 - (B) Rock Creek and associated tributaries.
- (4) South Fork New and New Rivers ORW Area [New River Basin (Index Nos. 10-1-33.5 and 10)]: the following management strategies, in addition to the discharge requirements set forth in Subparagraph (c)(1) of this Rule, shall apply to the designated ORW areas:
- (A) Stormwater controls described in Subparagraph (c)(1) of this Rule shall apply to land within one mile of and that drains to the designated ORW areas;
 - (B) New or expanded National Pollutant Discharge Elimination System (NPDES) permitted wastewater discharges located upstream of the designated ORW (for the North Fork New River ORW area, see Subparagraph (14) of this Paragraph) shall be permitted such that the following water quality standards are maintained in the ORW segment:
 - (i) the total volume of treated wastewater for all upstream discharges combined shall not exceed 50 percent of the total instream flow in the designated ORW under 7Q10 conditions, which are defined in Rule .0206(a)(1) of this Section;
 - (ii) a safety factor shall be applied to any chemical allocation such that the effluent limitation for a specific chemical constituent shall be the more stringent of either the limitation allocated under design conditions pursuant to Rule .0206 of this Section for the normal standard at the point of discharge, or the limitation allocated under design conditions for one-half the normal standard at the upstream border of the ORW segment;
 - (iii) a safety factor shall be applied to any discharge of complex wastewater (those containing or potentially containing toxicants) to protect for chronic toxicity in the ORW segment by setting the whole effluent toxicity limitation at the higher effluent concentration determined under design conditions pursuant to Rule .0206 of this Section for either the instream effluent concentration at the point of discharge or twice the effluent concentration calculated as if the discharge were at the upstream border of the ORW segment;
 - (C) New or expanded NPDES permitted wastewater discharges located upstream of the designated ORW (for the North Fork New River ORW area, see Subparagraph (14) of this Paragraph) shall comply with the following:
 - (i) Oxygen Consuming Wastes: Effluent limitations for oxygen consuming wastes shall be BOD = 5 mg/1, and NH₃-N = 2 mg/1;
 - (ii) Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/1 for trout waters and to 20 mg/1 for all other waters;
 - (iii) Emergency Requirements: Reliable treatment designs shall be employed, such as stand-by power capability for entire treatment works, dual train design for all treatment components, or other reliable treatment designs in accordance with 15A NCAC 02H .0124;
 - (iv) Nutrients: If nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus, nitrogen, or both;
- (5) Old Field Creek (New River Basin): the undesignated portion of Old Field Creek from its source to Call Creek shall comply with Subparagraph (c)(1) of this Rule in order to protect the designated waters as per Rule .0203 of this Section;
- (6) In the following designated waterbodies, no additional restrictions shall be placed on new or expanded marinas. The only new or expanded NPDES permitted discharges that shall be allowed shall be non-domestic, non-process industrial discharges. The Alligator River Area (Pasquotank River Basin), extending from the source of the Alligator River to the U.S. Highway 64 bridge, including New Lake Fork, North West Fork Alligator River, Juniper Creek, Southwest Fork Alligator River, Scouts Bay, Gum Neck Creek, Georgia Bay, Winn Bay, Stumpy Creek Bay,

Stumpy Creek, Swann Creek (Swann Creek Lake), Whipping Creek (Whipping Creek Lake), Grapevine Bay, Rattlesnake Bay, The Straits, The Frying Pan, Coopers Creek, Babbitt Bay, Goose Creek, Milltail Creek, Boat Bay, Sandy Ridge Gut (Sawyer Lake) and Second Creek, but excluding the Intracoastal Waterway (Pungo River-Alligator River Canal) and all other tributary streams and canals;

- (7) In the following designated waterbodies, the only type of new or expanded marina that shall be allowed shall be those marinas located in upland basin areas, or those with fewer than 10 slips having no boats over 24 feet in length and no boats with heads. The only new or expanded NPDES permitted discharges that shall be allowed shall be non-domestic, non-process industrial discharges:
- (A) the Northeast Swanquarter Bay Area including all waters northeast of a line from a point at Lat. 35E 23N 51O and Long. 76E 21N 02O thence southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as defined by the 1935 Presidential Proclamation and depicted on the U.S. Fish and Wildlife Service Swanquarter National Wildlife Refuge map at <https://www.fws.gov/southeast/pdf/map/swanquarter-national-wildlife-refuge.pdf>, incorporated by reference) to Drum Point;
 - (B) the Neuse-Southeast Pamlico Sound Area (Southeast Pamlico Sound Section of the Southeast Pamlico, Core and Back Sound Area); (Neuse River Basin) including all waters within an area defined by a line extending from the southern shore of Ocracoke Inlet northwest to the Tar-Pamlico River and Neuse River basin boundary, then southwest to Ship Point;
 - (C) the Core Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin), including all waters of Core Sound and its tributaries, but excluding Nelson Bay, Little Port Branch and Atlantic Harbor at its mouth, and those tributaries of Jarrett Bay that are closed to shellfishing;
 - (D) the Western Bogue Sound Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin), including all waters within an area defined by a line from Bogue Inlet to the mainland at SR 1117 to a line across Bogue Sound from the southwest side of Gales Creek to Rock Point and including Taylor Bay and the Intracoastal Waterway;
 - (E) the Stump Sound Area (Cape Fear River Basin), including all waters of Stump Sound and Alligator Bay from marker Number 17 to the western end of Permuda Island, but excluding Rogers Bay, the Kings Creek Restricted Area, and Mill Creek; and
 - (F) the Topsail Sound and Middle Sound Area (Cape Fear River Basin), including all estuarine waters from New Topsail Inlet to Mason Inlet and including the Intracoastal Waterway and Howe Creek, but excluding Pages Creek and Futch Creek.
- (8) In the following designated waterbodies, no new or expanded NPDES permitted discharges and only new or expanded marinas with fewer than 10 slips having no boats over 24 feet in length and no boats with heads shall be allowed:
- (A) the Swanquarter Bay and Juniper Bay Area (Tar-Pamlico River Basin), including all waters within a line beginning at Juniper Bay Point and running south and then west below Great Island, then northwest to Shell Point and including Shell, Swanquarter, and Juniper Bays and their tributaries, but excluding all waters northeast of a line from a point at Lat. 35E 23N 51O and Long. 76E 21N 02O thence southeast along the Swanquarter National Wildlife Refuge hunting closure boundary (as defined by the 1935 Presidential Proclamation and depicted on the U.S. Fish and Wildlife Service Swanquarter National Wildlife Refuge map at <https://www.fws.gov/southeast/pdf/map/swanquarter-national-wildlife-refuge.pdf>, incorporated by reference) to Drum Point and also excluding the Blowout, Hydeland, Juniper, and Quarter Canals;
 - (B) the Back Sound Section of the Southeast Pamlico, Core and Back Sound Area (White Oak River Basin), including that area of Back Sound extending from Core Sound west along Shackelford Banks, then north to the westernmost point of Middle Marshes and along the northwest shore of Middle Marshes (to include all of Middle Marshes), then west to Rush Point on Harker's Island, and along the southern shore of Harker's Island back to Core Sound;

- (C) the Bear Island Section of the Western Bogue Sound and Bear Island Area (White Oak River Basin), including all waters within an area defined by a line from the western most point on Bear Island to the northeast mouth of Goose Creek on the mainland, east to the southwest mouth of Queen Creek, then south to green marker No. 49, then northeast to the northern most point on Huggins Island, then southeast along the shoreline of Huggins Island to the southeastern most point of Huggins Island, then south to the northeastern most point on Dudley Island, then southwest along the shoreline of Dudley Island to the eastern tip of Bear Island; and
 - (D) the Masonboro Sound Area (Cape Fear River Basin), including all waters between the Barrier Islands and the mainland from Carolina Beach Inlet to Masonboro Inlet.
- (9) Black and South Rivers ORW Area (Cape Fear River Basin) [Index Nos. 18-68-(0.5), 18-68-(3.5), 18-68-(11.5), 18-68-12-(0.5), 18-68-12-(11.5), and 18-68-2]: the following management strategies shall be required in addition to the discharge requirements specified in Subparagraph (c)(1) of this Rule:
- (A) Stormwater controls described in Subparagraph (c)(1) of this Rule shall apply to land within one mile of and that drains to the designated ORW areas;
 - (B) New or expanded NPDES permitted wastewater discharges located one mile upstream of the stream segments designated ORW (upstream on the designated mainstem and upstream into direct tributaries to the designated mainstem) shall comply with the following discharge restrictions:
 - (i) Oxygen Consuming Wastes: Effluent limitations shall be as follows: BOD shall not exceed 5 mg/l and NH₃-N shall not exceed 2 mg/l;
 - (ii) Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 20 mg/l;
 - (iii) Emergency Requirements: Reliable treatment designs shall be employed, such as stand-by power capability for entire treatment works, dual train design for all treatment components, or other reliable treatment designs in accordance with 15A NCAC 02H .0124;
 - (iv) Nutrients: If nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus, nitrogen, or both.
 - (v) Toxic substances: If complex discharges (those containing or potentially containing toxicants) may be currently present in the discharge, a safety factor shall be applied to any chemical or whole effluent toxicity allocation. The limit for a specific chemical constituent shall be allocated at one-half of the normal standard at design conditions. Whole effluent toxicity shall be allocated to protect for chronic toxicity at an effluent concentration equal to twice that which is acceptable under flow design criteria pursuant to Rule .0206 of the Section.
- (10) Lake Waccamaw ORW Area (Lumber River Basin) [Index No. 15-2]: all undesignated waterbodies that are tributary to Lake Waccamaw shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section;
- (11) Swift Creek and Sandy Creek ORW Area (Tar-Pamlico River Basin) [portion of Index No. 28-78-(0.5) and Index No. 28-78-1-(19)]: all undesignated waterbodies that drain to the designated waters shall comply with Paragraph (c) of this Rule in order to protect the designated waters as per Rule .0203 of this Section and to protect outstanding resource values found in the designated waters as well as in the undesignated waters that drain to the designated waters;
- (12) Fontana Lake North Shore ORW Area (Little Tennessee River Basin and Savannah River Drainage Area) [Index Nos. 2-96 through 2-164] (excluding all waterbodies that drain to the south shore of Fontana Lake) consists of the entire watersheds of all creeks that drain to the north shore of Fontana Lake between Eagle and Forney Creeks, including Eagle and Forney Creeks. In addition to the requirements set forth in Subparagraph (c)(1) of this Rule, any person conducting development activity disturbing greater than or equal to 5,000 square feet of land area in the designated ORW area shall undertake the following actions to protect the outstanding resource values of the designated ORW and downstream waters:
- (A) investigate for the presence of and identify the composition of acid-producing rocks by exploratory drilling or other means and characterize the net neutralization potential of the acid-producing rocks prior to commencing the land-disturbing activity;

- (B) to the maximum extent practicable, taking into account site-specific factors including technical and cost considerations as well as protection of water quality, avoid areas where acid-producing rocks are found with net neutralization potential of -5 or less;
 - (C) establish background levels of acidity and mineralization prior to commencing land-disturbing activity and monitor and maintain baseline water quality conditions for the duration of the land-disturbing activity and thereafter for a period of at least two years as determined by the Division as part of a certification issued in accordance with 15A NCAC 02H .0500 or stormwater permit issued pursuant to this Rule;
 - (D) obtain a NPDES permit for construction pursuant to Rule 15A NCAC 02H .0126 prior to initiating land-disturbing activity;
 - (E) design stormwater control systems to control and treat stormwater runoff from all surfaces generated by one inch of rainfall, in accordance with 15A NCAC 02H .1003(3), .1003(5), and .1050; and
 - (F) post development, replicate pre-development runoff characteristics and mimic the natural hydrology of the site.
- (13) Horsepasture River ORW Area (Savannah Drainage Area) [Index No. 4-13-(0.5) and Index No. 4-13-(12.5)]: all undesignated waterbodies that are located within the Horsepasture River watershed shall comply with Subparagraph (c)(1) of this Rule in order to protect the designated waters as per Rule .0203 of this Section and to protect outstanding resource values throughout the watershed. However, new domestic wastewater discharges and expansions of existing wastewater discharges shall be allowed provided that:
- (A) Oxygen Consuming Wastes: Effluent limitations shall be as follows: BOD shall not exceed 5 mg/l and NH₃-N shall not exceed 2 mg/l;
 - (B) Total Suspended Solids: Discharges of total suspended solids (TSS) shall be limited to effluent concentrations of 10 mg/l for trout waters and to 20 mg/l for all other waters except for mining operations, which shall be held to their respective NPDES TSS permit limits;
 - (C) Nutrients: If nutrient overenrichment is projected to be a concern, effluent limitations shall be set for phosphorus, nitrogen, or both; and
 - (D) Volume: The total volume of treated wastewater for all discharges combined shall not exceed 25 percent of the total instream flow in the designated ORW under 7Q10 conditions, as defined in Rule .0206(a)(1) of this Section;
- (14) North Fork New River ORW Area (New River Basin) [Index Nos. 10-2-(1), 10-2-(11) and 10-2-(12)]: all non-ORW waterbodies, including Little Buffalo Creek and Claybank Creek [Index Nos. 10-2-20-1 and 10-2-20-1-1], that are located within the North Fork New River watershed shall comply with Rule .0224 of this Section in order to protect the ORW designated waters.

History Note: Authority G.S. 143-214.1; S.L. 2005-97;
 Eff. October 1, 1995;
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