

15A NCAC 02L .0104 RESTRICTED DESIGNATION

(a) The restricted designation (RS) means that groundwater may not be suitable for use as a drinking water supply without treatment.

(b) Upon application by a responsible party, the Director is authorized to apply the RS to GA or GSA groundwaters, as defined under Rule .0201 of this Subchapter, under any of the following circumstances:

- (1) For sites undergoing risk-based remediation per Rule .0106(i) of this Section.
- (2) Areas of remaining contamination where the Secretary has approved the termination of an approved corrective action per Rule .0106(j) of this Section.
- (3) Where a variance has been granted by the Commission as provided in Rule .0113 of this Section.

(c) Groundwaters occurring within an area defined by a compliance boundary in a waste disposal permit are deemed RS.

(d) The boundary of the RS area shall be located 250 feet or greater from the boundary of the contaminant plume and shall include any areas into which the contamination is predicted through modeling or expected through professional judgment to migrate.

(e) Where the RS area crosses, intercepts, or adjoins surface waters, the RS shall not give the right to cause or contribute to an exceedance of the surface water standards established under 15A NCAC 02B .0200.

(f) Application for RS. The person requesting a RS shall provide to the Director a plan that includes the following:

- (1) The person's name, address, and phone number.
- (2) The physical location of the of facility or site where the contamination originated.
- (3) If applicable, a copy of the Secretary's approval for termination of corrective action or a variance granted by the Commission as provided in Rule .0113 of this Section.
- (4) A summary of the site assessment and corrective actions including the results of any predictive modeling that estimates the time to return compliance for the RS area.
- (5) Maps showing the current horizontal and vertical extent of any contamination and the areas where the contamination is predicted or expected to migrate including the current and predicted quantities of any contaminants and all current and potential future receptors within 1,500 feet of contamination.
- (6) A map showing the proposed RS area including the county title number, county tax identification number, or the property tax book and page identifiers of the properties included within the proposed RS area.
- (7) A plan for monitoring the groundwater quality within the RS area that includes the current or proposed wells to be monitored, the frequency of the monitoring, and the constituents of interest to be monitored.
- (8) If the proposed RS area extends beyond the source property's boundary, a signed statement from each property owner agreeing to the proposed RS area on their property if required by statute.
- (9) If the proposed RS area crosses, intercepts, or adjoins surface waters, a plan to ensure the surface water standards established under 15A NCAC 02B .0200 are not violated.

(g) The Director shall review whether the proposed plan is protective of public health and the environment for receptors within the RS area and otherwise complies with requirements of this Rule. The Director may require a person who proposes a plan to supply any additional information not provided that is necessary to satisfy the requirements of Paragraph (f) of this Rule.

(h) Prior to approving the proposed plan in Paragraph (f) of this Rule, the Division shall provide public notice of the intent to designate any groundwater with RS as follows:

- (1) Provide notice at least 30 days prior to any proposed final action to all property owners with signed statements per Subparagraph (f)(8) of this Rule, to the local County Health Director, and the chief administrative officer of the jurisdiction(s) in which the contamination occurs.
- (2) The notice shall contain the following information:
 - (A) Name, address, and phone number of the agency issuing the public notice;
 - (B) A copy of the plan in Paragraph (f) of this Rule or where the plan can be obtained.
 - (C) Conditions applicable to removal of the RS designation; and
 - (D) Address and phone number of a Division contact from whom interested parties may obtain further information.
- (3) The Director shall consider all requests for a public hearing, and if he or she determine that there is significant public interest, he or she shall issue public notice and hold a public hearing in accordance with G.S 143-215.4(b) and Rule .0113(e)(2) of this Section.

- (4) The requirements of this Paragraph shall not apply to groundwaters defined in Paragraph (c) of this Rule.
- (i) The Director shall approve the plan if the proposal complies with Paragraph (g) of this Rule. Upon making a determination, the Director shall provide specific findings to support their decision to approve or disapprove a proposed plan.
- (j) The process for recordation, application, and removal of an approved RS shall be in accordance with G.S. 143B-279.10 or G.S. 143B-279.11. The land use restriction shall be that groundwater within the RS area may not be suitable for drinking without treatment.
- (k) The RS shall also be removed if the groundwater within the RS is reclassified by the Commission per G.S. 143-214.1.

History Note: Authority G.S. 143-214.1; 143-215.3(a)(1); 143B-282(a)(2); 143B-279.9; 143B-279.10; 143B-279.11;
Eff. June 10, 1979;
Amended Eff. October 1, 1993; December 1, 1989; August 1, 1989; December 30, 1983;
Readopted Eff. June 1, 2022.