

15A NCAC 02L .0101-.0103  
Amended Eff. September 1, 1984

15 NCAC 2L .0101 - .0103 have been amended as follows:

.0101 AUTHORIZATION

(a) N.C. General Statute 143-214.1 directs that the Commission develop and adopt after proper study a series of classifications and standards which will be appropriate for the purpose of classifying each of the waters of the State in such a way as to promote the policy and purposes of the Act. Pursuant to this statute, the regulations of this subchapter establish a series of classifications and water quality standards applicable to the underground waters of the State.

(b) These regulations and the standards they establish apply to all classified underground waters. Many common activities take place in or near shallow subsurface waters with no resulting violation of GA groundwater quality standards and it is the intention of these regulations that those activities continue unimpeded except where specific problems are identified on a case by case basis. These activities include:

- (4) subsurface or surface municipal, industrial, and domestic waste disposal activities or other activities which may affect underground waters when these systems are installed and operated or conducted according to regulations established by the Departments of Human Resources, Agriculture, or Natural Resources and Community Development.

As used herein, the phrase "specific problems" shall mean a set of facts or circumstances which show with a reasonable certainty that one or more of the following exists or will exist in the foreseeable future:

- (1) An existing or probable violation of GA groundwater standards;
- (2) The existence or probability of a violation of any other environmental standard or regulation;
- (3) A threat to human life, health, or safety;
- (4) A threat to the environment.

(c) The regulations established in this Subchapter are intended to maintain and preserve the quality of the subsurface and groundwaters, prevent and abate pollution and contamination, protect public health, and permit management of the groundwaters for their best usage by the citizens of North Carolina. It is the policy of the EMC that the best usage of the underground water of the state is as a source of drinking water in its ambient state. These groundwaters generally are a potable source of drinking water without the necessity of treatment. It is the intent of these regulations to protect the overall high quality of North Carolina's underground waters and to enhance and restore the quality of degraded groundwaters to the level established by the standards wherever practicable.

History Note: Statutory Authority G.S. 143-214.1, G.S. 143-214.2;  
Eff. June 10, 1979;  
Amended Eff. September 1, 1984; December 30, 1983.

.0102 DEFINITIONS

The definition of any word or phrase used in these regulations shall be the same as given in G.S. 143-213, except that the following words or phrases shall have the following meanings:

- (1) "Deleterious substance" means any substance which may cause the water to be unpleasant to taste, or unsightly, or otherwise renders the water unsuitable for human consumption.

- (3) "Groundwaters" are those waters in the saturated zone of the earth.
- (21) "Person" shall mean any individual, proprietorship, partnership, joint venture, corporation, or any other entity, or any employee, designee, agent, or representative in any official capacity empowered to act in behalf of that entity with knowledge of that entity, either express or implied.
- (22) "Commission" shall mean the Environmental Management Commission as organized under General Statute Section 143B-282, et seq.
- (23) "Land Surface" for the purpose of determining the location of GB waters shall be the existing contour of the earth, whether the natural contour or artificially altered by excavation. In the case of an alteration of the existing land surface by the addition of fill material, the land surface is the natural contour of the earth as it existed prior to any alteration. Where it is determined that a person has intentionally altered the surface of the earth for the purpose of evading the regulations and standards contained in this subchapter, the phrase, "land surface" shall mean the contour of the earth that existed prior to such activity.
- (24) "Point of Compliance" shall be the point at the land surface at which penalties under G.S. 143-214.6(a)(1)(b) may be imposed for a violation of applicable underground water quality standards. (See rule .0103(h) of this subchapter).
- (25) "Perimeter of Compliance" shall mean the locus of all points in the vertical plane extending downward from the points of compliance surrounding a point of discharge.

History Note: Statutory Authority G.S. 143-214.1;  
 Eff. June 10, 1979;  
 Amended Eff. September 1, 1984; December 30, 1983.

#### .0103 GENERAL RULES

(b) No person shall cause the concentration of any toxic or deleterious substances to exceed that specified in Rule .0202 of this Subchapter, except in accordance with a compliance schedule authorized by the Director.

(c) In addition to the GS, GSA, GB, and GSB classifications assigned to underground waters as a provision of this Subchapter, the Director is authorized to designate such underground waters "restricted" (RS) under any of the following circumstances:

- (1) Where underground waters contain toxic or deleterious substances in excess of the maximum allowable concentrations established under this Subchapter, and restoration or treatment can be shown to be technologically and economically feasible;
- (2) Where a statutory variance has been granted for the underground waters as provided in Subsection (d) of this Section.
- (3) Where underground waters contain naturally occurring concentrations in excess of the standards established under Section .0202(b) of this Subchapter whether or not restoration or treatment is feasible, but provided that restoration for naturally occurring excess concentrations may not be required of any person as a result of this designation.
- (4) Where underground waters have been designated RS under Subsection (1) herein, and where the source of contamination and the responsible person are identified, a compliance schedule shall be issued within (12) months of the undergroundwaters being designated.

(d) Any person subject to the provisions of General Statute 143.215.1 may apply to the EMC for a variance from the groundwater classifications and quality standards established pursuant to these regulations and North Carolina General Statute 143.214.1. A variance may be granted by the Commission pursuant to the requirements of North Carolina General Statute 143-215.3(e). The burden of proof in any public hearing or other proceeding pursuant to North Carolina General Statute 143-215.3(e) shall be upon the applicant for a variance. No variance shall be granted to allow the discharge of waste to the subsurface or groundwaters of the State by means of wells or for an extension or expansion of the perimeter of compliance as established pursuant to the regulations of this subchapter.

(e) Any person conducting an activity causing or significantly contributing to the violation of underground water quality standards may apply to the Director for a compliance schedule. In such cases the Director may authorize a compliance schedule requiring the restoration of the quality of the underground waters to the level of the standard, or to a level as close to the applicable standards hereunder as is economically and technologically feasible. In determination the structure, duration, level of compliance, and feasibility of a compliance schedule, the Director shall consider the extent of any violations, the extent of any threat to human health or safety, the extent of damage to the environment, the total cost of the cleanup involved, the marginal cost of the cleanup required, further technological advances which might permit such cleanup, and the public and economic benefit of requiring such cleanup. Compliance schedules may be revised or revoked by the Director if the terms of the compliance schedules are violated by the person operating thereunder, or if additional information on the extent and magnitude of the violation becomes known. Where it is determined that there was willful or intentional violation of the underground water quality standards, the Director shall not grant a compliance schedule prior to instituting the appropriate enforcement provision under G.S. 143-214.6.

(h) Perimeter of Compliance: Existing and New Facilities

- (1) Exceedances of the standards established for the underground waters occurring within the perimeter of compliance shall not be subject to the penalty provisions applicable under 143-215.6
  - (1)a.
- (2) The Commission shall otherwise consider underground waters existing within the compliance perimeter to be classified waters of the state, and shall require:
  - (A) that permits for all activities governed by G.S. 143-214.1 will be written to protect the level of groundwater quality established by GA standards;
  - (B) that necessary groundwater quality monitoring within the compliance perimeter will be required.
  - (C) that a violation of standards within the compliance perimeter be remedied through clean-up, recovery, containment, or other response which the Commission determines to be necessary when any of the following conditions occur:
    - (i) a violation of the standard in adjoining GA waters occurs or can be reasonably predicted to occur considering hydro-geologic conditions, modeling, or other available evidence;
    - (ii) an imminent hazard or threat to the public health or safety exists or can be predicted.

- (3) For existing facilities, the compliance perimeter shall be established at a distance 500 feet from the point of discharge, or the property boundary, whichever is less.
- (4) For new facilities, the compliance perimeter shall be established at the lesser of 250 feet from the point of discharge, or 50 feet within the property boundary.
- (5) Nothing in this subsection shall be construed to prevent the Commission from initiating enforcement action even when pollution occurs solely within the compliance perimeter based upon permit violations, imminent threat to the public health, safety, or the environment, or violations of any special order issued by the Commission.
  - (i) Exemptions: The following activities shall not be subject to the regulations of this subchapter:
    - (1) Upconing resulting from water use activities conducted under and in compliance with a water use permit.
    - (2) The use of drilling fluids as approved under the well construction regulations.

History Note: Statutory Authorities G.S. 143-214.1; 143-214.2; 143-214; 143-215.3(e);  
Eff. June 10, 1979;  
Amended Eff. September 1, 1984; December 30, 1983.