15A NCAC 02B .0402 is proposed for readoption without substantive changes as follows:

15A NCAC 02B .0402 SCOPE

Effluent limits established herein shall apply to all effluents discharged from pretreatment facilities and from outlets and point sources to the waters of the state.

History Note: *Authority G.S. 143-215; 143-215.1; 143-215.3(a)(1);*
Eff. February 1, ~~1976.~~ 1976;
Readopted Eff. <date>.

Commented [TM1]: 'Waters', 'outlet', and 'point source' are defined in G.S. 143-212 and 143-213.

15A NCAC 02B .0403 is proposed for readoption with substantive changes as follows:

15A NCAC 02B .0403 DEFINITION OF TERMS

The terms used in this Section shall be as defined in G.S. ~~143-213~~143-212 and 143-213; the federal Clean Water Act (33 U.S.C. 1251 et seq.); 40 CFR Parts 122, 124, and 125; and as follows:

(1) ~~The term "commission"~~"Commission" means the Environmental Management Commission or its successor.

(2) ~~The term "director"~~"Director" means the Director of the Division of ~~Environmental Management,~~Water Resources or Division of Energy, Mineral and Land Resources, or both, Department of ~~Natural Resources and Community Development.~~Environmental Quality, whichever is the permitting authority in a particular instance; or his designee.

(3) "Division" means the Division of Water Resources or the Division of Energy, Mineral and Land Resources, or both, Department of Environmental Quality, whichever is the permitting authority in a particular instance.

(4) ~~The term "staff"~~"Staff" means the ~~division of environmental management,~~Division, or its successor.

~~(4) The term "BPCTCA" shall mean best practicable control technology currently available. Effluent limitations determined as BPCTCA are immediately applicable and shall be complied with not later than July 1, 1977.~~

~~(5) The term "BPWTT" shall mean best practicable waste treatment technology. Effluent limitations established by this designation shall be complied with not later than July 1, 1983.~~

~~(6) The term "BCT" shall mean best conventional pollutant control technology. Effluent limitations designated as BCT will control the discharge of pollutants determined to be conventional in nature and these limitations shall be complied with not later than July 1, 1984.~~

~~(7) The term "BAT" shall mean best available technology economically achievable. Effluent limitations designated as BAT will control the discharge of pollutants determined to be nonconventional in nature and these limitations will come into effect on July 1, 1984, and shall be complied with not later than July 1, 1987.~~

~~(8) The term "BAT/BMP'S" shall mean best available technology economically achievable/best management practices. Effluent limitations designated as BAT/BMP's will control the discharge of pollutants determined to be toxic in nature. Compliance with these designated effluent limitations must be maintained not later than three years after such limitations are developed, or not later than July 1, 1984, whichever is later, but in no case later than July 1, 1987.~~

(5) "Technology-based effluent limitations (or limits)," or "TBELs," means those effluent limits that are based on a required level of treatment performance.

Commented [A1]: Change: Updated references to DENR and DWR; made minor punctuation corrections.
Effect: Technical corrections.

Change: Updated several existing definitions, added others. Deleted references to obsolete compliance dates.
Effect: None – technical change.

Commented [TM2]: Change: Expanded to include other applicable definitions, many established since original rule was established. Federal rules are incorporated by reference at 2B .0408.
Effect: None – technical corrections

Commented [A3]: Change: Expanded the definition to reflect that directors of both divisions that have permitting authority under these rules.
Effect: Technical correction.

Commented [TM4]: Change: Combined these five terms into new definition for TBELs.
Effect: Technical corrections and updates.

(6) “Water quality-based effluent limitations (or limits),” or “WQBELs,” means those effluent limits that are established to ensure that a discharge does not cause or contribute to a contravention of state surface water quality standards.

~~(9) The term "new source performance standards" shall mean the effluent limitations required of an industrial discharger determined under the guidance of 15A NCAC 2B .0407 to be a new source.~~

(7) “Publicly owned treatment works,” or “POTW,” means a treatment works owned by a State or a municipality and is as defined more fully in 40 CFR 403.3, which is hereby incorporated by reference including any subsequent amendments or editions. The current version of this regulation can be accessed free of charge at http://www.gpo.gov/fdsys/ .

~~(10)~~(8) ~~The term "waste~~“Waste stabilization pond" (also called "lagoons" or "oxidation ponds") ~~shall mean~~means a large, relatively shallow basin designed for long term detention of wastewater which may or may not have received prior treatment. While in the basin, the wastewater is biologically treated to reduce biochemical oxygen demand and suspended solids. Stabilization ponds are further defined as:

(a) Photosynthetic Pond. A pond which is designed to rely on photosynthetic oxygenation (i.e., oxygen from algae) for any portion of the oxygen needed for waste treatment; This includes oxidation ponds and facultative lagoons. These ponds may have supplemental aeration by mechanical means. With regard to hydraulic flow, photosynthetic ponds are either of the:

(i) flow-through type, in which the pond discharges relatively continuously throughout the year; or

(ii) controlled-discharge type, in which the pond is designed to retain the wastewater without discharge from six months to one year, followed by controlled discharge over a short time interval (typically about one to three weeks);

(b) Aerated Pond. A pond which is not designed to rely on any photosynthetic oxygenation to provide oxygen needed for biological waste treatment; Air is supplied by mechanical means. Aerated ponds are either:

(i) complete mix, in which sufficient energy is imparted to the wastewater to prevent deposition of solids in the pond; or

(ii) partial-mix, in which only sufficient energy is used to dissolve and mix oxygen in the wastewater. Solid materials settle in the partial-mix pond and are decomposed anaerobically. There will be algae in the partial-mix aerated pond, but usually far fewer than in a photosynthetic pond.

This definition does not include polishing or holding ponds which are preceded by other biochemical or physical/chemical secondary treatment processes and designed to increase their efficiency. The pond may be single-cell or multi-cell.

Commented [TM5]: Change: Moved to definition for ‘Minimum treatment requirements’.
Effect: Technical change.

~~(11) The term "best waste stabilization pond technology" shall mean a monthly average effluent suspended solids concentration of 90 mg/l and a weekly maximum average effluent suspended solids concentration of 135 mg/l for those waste stabilization ponds that are achieving the level of effluent quality established for biochemical oxygen demand in .0406(a)(2) of this Section.~~

~~(12)~~(9) ~~The term "minimum~~"Minimum treatment requirements" means the minimum technology-based effluent limitations that a specific discharge would be required to ~~comply with the designations secondary treatment as defined in 15A NCAC 2B .0406, BPWTT, BPCTCA, BCT, BAT and/or BMP's as required of a specific wastewater discharge.~~meet in order to satisfy applicable treatment standards, including the following:

(a) "Secondary treatment" is the minimum standard of treatment for POTWs.

(b) "Best waste stabilization pond technology" is the standard of treatment for waste stabilization ponds treating municipal or similar wastewaters only.

(c) "Best practicable waste treatment technology," or "BPWTT," is an advanced standard of treatment for POTWs.

(d) "Best practicable pollutant control technology," or "BPT," is the minimum standard of treatment for existing industrial dischargers.

(e) "Best conventional pollutant control technology," or "BCT," is a standard of treatment for existing industrial dischargers and typically applies to conventional pollutants.

(f) "Best available technology economically achievable," or "BAT" is a standard of treatment for industrial dischargers and typically applies to nonconventional and priority pollutants.

(g) "New source performance standards" is the standard of treatment for industrial dischargers determined to be a new source pursuant to 15A NCAC 2B .0407.

– Minimum treatment requirements must be met even if the receiving waters affected can or are expected to be able to accept higher pollutant-load levels and still meet applicable water quality standards.

~~(13)~~(10) ~~The term "water~~"Water quality limited segment" means a segment where it is known that water quality does not meet applicable water quality standards or is not expected to meet them even after the application of minimum treatment requirements.

~~(14)~~(11) ~~The term "effluent~~"Effluent limited segment" means a segment where it is known that water quality is meeting and will continue to meet applicable water quality standards or where there is adequate demonstration that water quality will meet applicable water quality standards after the application of minimum treatment requirements.

~~(15)~~(12) ~~The term "settleable~~"Settleable solids" means the volumetric measurement of solids after a specified settling time. The determination of settleable solids shall be made in the following manner: one liter of the wastewater is placed in a standard Imhoff cone and allowed to settle for 45 minutes. After 45 minutes settling, the liquid layer is gently stirred and allowed to settle for 15 additional minutes. The volume of solids is immediately read in milliliter per liter (ml/l).

Commented [TM6]: Change: Moved to definition for 'Minimum treatment requirements'; and revised because the numeric limits are already defined in 2B .0406(3).
Effect: Technical changes.

~~(16)~~(13) ~~The term "oxygen~~"Oxygen consuming wastes" means those wastewater discharge components recognized as being oxygen demanding in the aquatic environment. These are generally limited by BOD(5) and NH(3)-N.

(14) "Conventional pollutants" means biochemical oxygen demand (BOD(5)), Total Suspended Solids (TSS), pH, fecal coliform, oil and grease, and any other pollutants the USEPA designates as conventional in applicable regulations.

(15) "Priority pollutant" means any chemical pollutant listed in 40 CFR Part 423, Appendix A, which is hereby adopted by reference, including any subsequent amendments and editions.

(16) "Nonconventional pollutant" means any pollutant not categorized as a conventional or priority pollutant parameter.

History Note: *Authority G.S. 143-215; 143-215.1; 143-215.3(a)(1);*
Eff. February 1, 1976;
Amended Eff. <date>; August 12, 1979; November 1, 1978; December 1, 1976.

15A NCAC 02B .0404 is proposed for readoption with subsequent changes as follows:

15A NCAC 02B .0404 WATER QUALITY BASED EFFLUENT LIMITATIONS ~~IN WATER QUALITY LIMITED SEGMENTS~~

(a) Effluent limitations more stringent than minimum treatment requirements shall be developed by the staff and approved by the Director for all existing or proposed ~~dischargers~~discharges to water quality limited segments of the surface waters of the ~~state.~~state and for discharges that are found, through statistical analysis of effluent data or other appropriate means, to have a reasonable potential to cause or contribute to exceedance of applicable water quality standards. The basis of these water quality effluent limitations shall be maintenance of water quality standards.

(b) The staff shall also provide on a case-by-case basis for seasonal variation in the discharge of oxygen-consuming wastes. In order to be considered eligible for seasonal effluent limitations, a request must be submitted to the Director along with a rationale as to the need for such limitations. Permit reissuance or modification during the remaining time of an existing permit will be considered on the basis of demonstrated need. In no case shall this variation cause or be expected to cause a receiving water body to violate applicable water quality standards.

(c) For the purpose of determining seasonal effluent limitations, the year shall consist of a summer and a winter discharge period. The summer period will begin April 1 and extend through October 31. The winter period shall be that portion of the year from November 1 to March 31. The summer oxygen-consuming wasteload allocation shall be developed using the flow criteria specified in 15A NCAC 2B .0206. The winter oxygen-consuming wasteload allocation shall in no case be less stringent than two times the summer oxygen-consuming waste load limitations nor shall it be less restrictive than minimum treatment requirements.

(d) No domestic sewage regardless of the treatment proposed and no other wastes which could adversely affect the taking of shellfish for market purposes shall be discharged into water classified "SA", into unnamed waters tributary to "SA" waters classified "C" or "SC" in accordance with Rule 2B .0301(i)(1)(B) and (C), or into other waters in such close proximity as to adversely affect such "SA" waters. Wastes discharged into other waters tributary to waters classified "SA" shall be treated in such manner as to assure that no impairment of water quality in the "SA" segments shall occur. No permits shall be issued for discharges into waters classified "SA" unless Shellfish Sanitation, Division of Marine Fisheries, Department of Environmental Quality, provides written concurrence that the discharge would not adversely affect shellfish water quality or the propagation of shellfish.

(e) The discharge of wastewaters to the Atlantic Ocean shall follow the guidelines and requirements set forth in the United States Environmental Protection Agency regulation Ocean Discharge Criteria, 40 C.F.R. 125.120 through 125.124, which is hereby adopted by reference, including any subsequent amendments and editions.

History Note: *Authority G.S. 143-215; 143-215.1; 143-215.3(a)(1); 143-214.2(c)*
Eff. February 1, 1976;
Amended Eff. <date>; August 12, 1979.

Commented [TM1]: Change: Changed title to reflect current terminology.
Effect: Clarification and update.

Commented [TM2]: Note: This paragraph is consistent with 2H .0401 (proposed for repeal), which says, perhaps more clearly, that "all wastewater generated in the State of North Carolina shall be treated to such an extent as to [e]nsure the compliance with water quality standards promulgated by the Commission."

Commented [A3]: Change: Para. (d) is recodified from 02H .0404(a), and the reference to Shellfish Sanitation in that rule was updated.
Effect: Consolidation of water quality-based discharge requirements.

Commented [A4]: Change: Paragraph (e) recodified from 2H .0404(d). Broadened to include amendments to federal regulation.
Effect: Consolidation of water quality-based discharge requirements.

15A NCAC 02B .0406 is proposed for amendment as follows:

15A NCAC 02B .0406 TECHNOLOGY BASED EFFLUENT ~~LIMITS IN EFFLUENT LIMITED SEGMENTS~~LIMITATIONS

(a) Municipal (POTW) Wastewaters and Other Similar Discharges

(1) Applicability. This Regulation is applicable to all municipal wastewater treatment discharges and all discharges consisting primarily of domestic sewage. In addition to the limits contained herein, limits applicable to industrial categories contained in .0406(b) of this Section will be applicable to any municipality ~~having industrial~~ if influent waste discharges from industries in any single category ~~which discharges~~ account for 10 or more percent of ~~the~~ its average daily wastewater flow ~~to the municipal system~~ or ~~where~~ the industrial discharges significantly impact the municipal system ~~and the~~ or its effluent ~~discharge is significantly impacted.~~ discharge.

(2) Effluent Limitations Except for Waste Stabilization Ponds ~~Included in (3) of This Subsection~~ Subject to Subparagraph (3) of this Rule. In ~~mg/l~~mg/L expressed as monthly average and weekly maximum average:

~~SECONDARY "BPWTT"~~

~~Effluent Characteristic Monthly Avg. Weekly Avg. Max. Avg. Max.~~

~~BOD(5) 30 mg/l 45 mg/l Reserved~~

~~TSS 30 mg/l 45 mg/l Reserved~~

~~Fecal Coliform (Effluent limitations for coliform bacteria and pH shall be imposed only if necessary to maintain compliance with applicable water quality standards.) Reserved~~

~~pH Reserved~~

	SECONDARY		"BPWTT"	
Effluent Characteristic	Monthly Avg.	Weekly Avg. Max.	Avg.	Max.
BOD(5)	30 mg/l	45 mg/l	Reserved	
TSS	30 mg/l	45 mg/l	Reserved	
Fecal Coliform	(Effluent limitations for coliform bacteria and pH shall be imposed only		Reserved	
pH			Reserved	

Commented [TM1]: Change: Changed title to reflect current terminology.
Effect: Technical change for clarification.

Commented [TM2]: Change: Paragraph (a) revised for clarity.
Effect: Technical change.

Commented [TM3]: Change: General edits, reformatting of table .
Effect: Technical changes.

	if necessary to maintain compliance with applicable water quality standards.)	

(3) Effluent limitations for waste stabilization ponds provided that:

(A) Waste stabilization ponds are the sole process used for secondary treatment;

(B) The maximum facility design capacity is two million gallons per day or less; and

(C) Operation and maintenance data indicate that the requirements for TSS of Part (2) of this Subsection cannot be achieved. In ~~mg/l~~mg/L expressed as monthly average and weekly maximum average:

~~SECONDARY "BPWTT"~~

~~Effluent Characteristic Monthly Avg. Weekly Avg. Max. Avg. Max.~~

~~BOD(5) 30 mg/l 45 mg/l Reserved~~

~~TSS 90 mg/l 135 mg/l Reserved~~

~~Fecal Coliform (Effluent limitations for coliform bacteria and pH shall be imposed only if necessary to maintain compliance with applicable water quality standards.) Reserved~~

~~pH Reserved~~

	SECONDARY		"BPWTT"	
Effluent Characteristic	Monthly Avg.	Weekly Avg. Max.	Avg.	Max.
BOD(5)	30 mg/L	45 mg/L	Reserved	
TSS	90 mg/L	135 mg/L	Reserved	
Fecal Coliform	(Effluent limitations for coliform bacteria and pH shall be imposed only if necessary to maintain compliance with applicable water quality standards.)		Reserved	
pH			Reserved	

Commented [TM4]: Change: General edits, reformatting of table .
Effect: Technical changes.

(b) Industrial Waste Discharges. Effluent limits for industrial waste discharges are set forth in ~~the Environmental Protection Agency~~ guidelines and standards ~~listed in this Rule which~~promulgated by the Environmental Protection Agency, including those in 40 CFR Chapter I, Subpart N – Effluent Guidelines and Standards. Such guidelines and standards are ~~adopted~~hereby incorporated by ~~reference as amended through June 1, 1984:~~reference, including any subsequent amendments and editions.

40 CFR 129 -- EPA Toxic Pollutant Effluent Standards
40 CFR 401 -- EPA General Provisions for Effluent Guidelines and Standards
40 CFR 405 -- EPA Effluent Guidelines and Standards for Dairy Products
40 CFR 406 -- EPA Effluent Guidelines and Standards for Grain Mills
40 CFR 407 -- EPA Effluent Guidelines and Standards for Canned and Preserved Fruits and Vegetables
40 CFR 408 -- EPA Effluent Guidelines and Standards for Canned and Preserved Seafood
40 CFR 409 -- EPA Effluent Guidelines and Standards for Sugar Processing
40 CFR 410 -- EPA Effluent Guidelines and Standards for Textiles
40 CFR 411 -- EPA Cement Manufacturing Effluent Guidelines and Standards
40 CFR 412 -- EPA Effluent Guidelines and Standards for Concentrated Animal Feeding Operations (CAFO)
40 CFR 413 -- EPA Effluent Guidelines and Standards for Electroplating
40 CFR 414 -- EPA Effluent Guidelines and Standards for Organic Chemicals
40 CFR 415 -- EPA Effluent Guidelines and Standards for Inorganic Chemicals
~~40 CFR 416 -- EPA Effluent Guidelines and Standards for Plastics and Synthetics~~
40 CFR 417 -- EPA Effluent Guidelines and Standards for Soaps and Detergents
40 CFR 418 -- EPA Effluent Guidelines and Standards for Fertilizer Manufacturing
40 CFR 419 -- EPA Effluent Guidelines and Standards for Petroleum Refining
40 CFR 420 -- EPA Effluent Guidelines and Standards for Iron and Steel Manufacturing
40 CFR 421 -- EPA Effluent Guidelines and Standards for Nonferrous Metals
40 CFR 422 -- EPA Phosphate Manufacturing Effluent Guidelines and Standards
40 CFR 423 -- EPA Effluent Guidelines and Standards for Steam Electric Power Generating
40 CFR 424 -- EPA Effluent Guidelines for Ferroalloy Manufacturing
40 CFR 425 -- EPA Effluent Guidelines and Standards for Leather Tanning and Finishing
40 CFR 426 -- EPA Effluent Guidelines and Standards for Glass Manufacturing
40 CFR 427 -- EPA Effluent Guidelines and Standards for Asbestos Manufacturing
40 CFR 428 -- EPA Effluent Guidelines for Rubber Processing
40 CFR 429 -- EPA Effluent Guidelines and Standards for Timber Products
40 CFR 430 -- EPA Effluent Guidelines and Standards for Pulp, Paper, and Paper Board
~~40 CFR 431 -- EPA Effluent Guidelines and Standards for Builders Paper and Board Mills~~
40 CFR 432 -- EPA Effluent Guidelines and Standards for Meat Products
40 CFR 433 -- EPA Effluent Guidelines and Standards for Metal Finishing

Commented [A5]: Change: References to federal Effluent Limitations Guidelines are updated and revised to include subsequent amendments.
Effect: Technical corrections plus automatic incorporation of future requirements.

Change: Updated list of federal Effluent Limitations Guidelines.
Effect: Technical corrections.

40 CFR 434 -- EPA Effluent Guidelines and Standards for Coal Mining
40 CFR 435 -- EPA Effluent Guidelines and Standards for Offshore Oil and Gas Extraction
40 CFR 436 -- EPA Effluent Guidelines and Standards for Mineral Mining and Processing
40 CFR 437 -- EPA Effluent Guidelines and Standards for Centralized Waste Treatment
40 CFR 438 -- EPA Effluent Guidelines and Standards for Metals Products and Machinery
40 CFR 439 -- EPA Effluent Guidelines and Standards for Pharmaceutical Manufacturing
40 CFR 440 -- EPA Effluent Guidelines and Standards for Ore Mining and Dressing
40 CFR 441 – EPA Effluent Limitations Guidelines and Standards for the Dental Category
40 CFR 442 -- EPA Effluent Guidelines and Standards for Transportation Equipment Cleaning
40 CFR 443 -- EPA Effluent Guidelines and Standards for Paving and Roofing Materials
40 CFR 444 -- EPA Effluent Guidelines and Standards for Waste Combustors
40 CFR 445 -- EPA Effluent Guidelines and Standards for Landfills
40 CFR 446 -- EPA Effluent Guidelines and Standards for Paint Formulating
40 CFR 447 -- EPA Effluent Guidelines and Standards for Ink Formulating
40 CFR 449 -- EPA Effluent Guidelines and Standards for Airport Deicing
40 CFR 450 -- EPA Effluent Guidelines and Standards for Construction and Development
40 CFR 451 -- EPA Effluent Guidelines and Standards for Concentrated Aquatic Animal Production (Aquaculture)
40 CFR 454 -- EPA Effluent Guidelines and Standards for Gum and Wood Chemicals Manufacturing
40 CFR 455 -- EPA Effluent Guidelines for Pesticide Chemicals Manufacturing
40 CFR 457 -- EPA Effluent Guidelines and Standards for Explosives Manufacturing
40 CFR 458 -- EPA Effluent Guidelines and Standards for Carbon Black Manufacturing
40 CFR 459 -- EPA Effluent Guidelines and Standards for Photographic Processing
40 CFR 460 -- EPA Effluent Guidelines and Standards for Hospitals
40 CFR 461 -- EPA Effluent Guidelines and Standards for Battery Manufacturing
40 CFR 463 -- EPA Effluent Guidelines and Standards for Plastic Molding and Forming
40 CFR 464 -- EPA Effluent Guidelines and Standards for Metal Molding and Casting (Foundries)
40 CFR 465 -- EPA Effluent Guidelines and Standards for Coil Coating
40 CFR 466 -- EPA Effluent Guidelines and Standards for Porcelain Enameling
40 CFR 467 -- EPA Effluent Guidelines and Standards for Aluminum Forming
40 CFR 468 -- EPA Effluent Guidelines and Standards for Copper Forming
40 CFR 469 -- EPA Effluent Guidelines and Standards for Electrical and Electronic Components
40 CFR 471 -- EPA Effluent Guidelines and Standards for Nonferrous Metals Forming and Metal Powders

(c) ~~Copies of these~~The current version of these Federal Regulations can be accessed free of charge at http://www.gpo.gov/fdsys/. ~~are on file at:~~

~~(1) Division of Environmental Management~~
~~Department of Natural Resources and Community Development~~
~~P.O. Box 27687, Raleigh, N.C. 27611~~

Commented [A6]: Change: Updated to note availability of materials online.
Effect: Technical corrections, improved availability of rules.

~~(2) Asheville Regional Office~~
~~Interchange Building, 59 Woodfin Place~~
~~Asheville, N.C. 28802~~
~~(3) Fayetteville Regional Office~~
~~Wachovia Building, Suite 714~~
~~Fayetteville, N.C. 28301~~
~~(4) Mooresville Regional Office~~
~~919 North Main Street~~
~~Mooresville, N.C. 28115~~
~~(5) Raleigh Regional Office~~
~~3800 Barrett Drive~~
~~Raleigh, N.C. 27609~~
~~(6) Washington Regional Office~~
~~1502 North Market Street~~
~~Washington, N.C. 27889~~
~~(7) Wilmington Regional Office~~
~~7225 Wrightsville Avenue~~
~~Wilmington, N.C. 28403.~~
~~(8) Winston-Salem Regional Office~~
~~8003 North Point Boulevard~~
~~Winston-Salem, N.C. 27106~~

(d) In cases where effluent limits established by Paragraph (b) of this Rule are not adequate to control settleable solids, the staff shall establish effluent limits for settleable solids. Such effluent limitations for settleable solids will be applicable only when the projected average solids concentration exceeds 5.0 ml/l and the limitations established shall lie within the range of 0.1 ml/l to 5.0 ml/l. The establishment of such limitations for any discharge shall be approved by the Director of the Division of ~~Environmental Management~~Water Resources or the Division.

(e) For industrial categories or parts of categories for which effluent limits and guidelines have not been published and adopted, effluent limitations for existing industrial waste discharges, or new industrial waste discharges shall be calculated by the staff using the projected limits of the Environmental Protection Agency, the Environmental Protection Agency development document and other available information in order to achieve the purposes of Article 21. Such limits developed by the staff shall be subject to approval by the Director.

History Note: *Authority G.S. 143--215; 143--215.1; 143--215.3(a)(1), (4);*
Eff. February 1, 1976;
Amended Eff. <date>; July 1, 1988; December 1, 1984; November 1, 1978; December 1, 1976.

15A NCAC 02B .0407 is proposed for readoption without substantive changes as follows:

15A NCAC 02B .0407 GUIDANCE FOR DETERMINING A NEW SOURCE

(a) A source should be considered a new source by the Director provided on the date of publication of any applicable new source performance standard there has not been any:

(1) significant site preparation work, such as major clearing or excavation; or

(2) placement, assembly, or installation of unique facilities or equipment at the premises where such facilities or equipment will be used; or

(3) contractual obligation to purchase such unique facilities or equipment; Facilities and equipment shall include only the major items listed below, provided that the value of such items represents a substantial commitment to construct the facility:

(A) structures, or

(B) structural materials, or

(C) machinery, or

(D) process equipment, or

(E) construction equipment.

(4) contractual obligation with a firm to design, engineer and erect a completed facility (i.e., a turnkey plant).

(b) A modification to an existing source will be considered a new source if the alteration is of such magnitude to, in effect, create a new facility. In making such a determination, the Director shall find that the permit modification procedures are not appropriate and shall consider, among other relevant factors, whether as a result of the alteration, the source can reasonably achieve the standard of performance. Only those portions of a facility determined to be a new source shall be required to achieve new source performance standards.

History Note: *Authority G.S. 143-215; 143-215.1; 143-215.3(a)(1), (4);*
Eff. December 1, ~~1976.~~1976;
Readopted Eff. <date>.

15A NCAC 02B .0408 is proposed for adoption as follows:

15A NCAC 02B .0408 INCORPORATION BY REFERENCE

(a) The following sections of Title 40 of the Code of Federal Regulations (CFR) are incorporated by reference, including subsequent amendments and editions, and shall apply throughout this Section except where procedural details of the federal rules differ from procedures adopted elsewhere in this section, in which case the separately adopted procedure governs. The current version of these regulations can be accessed free of charge at http://www.gpo.gov/fdsys/.

(1) 40 CFR Parts 122.2, 124.2, and 125.2: Definitions;
(2) §122.4: Prohibitions):
(3) §122.5 (a) and (b): Effect of permit;
(4) §122.7 (b) and (c): Confidential information;
(5) §122.21 (a)-(b), (c)(2), (e)-(k), (m)-(p), (q), and (r): Application for a permit;
(6) §122.22: Signatories;
(7) §122.23: Concentrated animal feeding operations;
(8) §122.24: Concentrated aquatic animal production facilities;
(9) §122.25: Aquaculture projects;
(10) §122.26: Storm water discharges;
(11) §122.27: Silviculture;
(12) §122.28: General permits;
(13) §122.29 (a), (b), and (d): New sources and new dischargers;
(14) §122.30: NPDES stormwater regulations for small MS4s: objectives;
(15) §122.31: NPDES stormwater regulations: role of Tribes;
(16) §122.32: NPDES stormwater regulations for small MS4s: applicability;
(17) §122.33: NPDES stormwater regulations for small MS4s: application for permit;
(18) §122.34: NPDES stormwater regulations for small MS4s: permit requirements;
(19) §122.35: NPDES stormwater regulations for small MS4s: shared responsibilities;
(20) §122.36: NPDES stormwater regulations for small MS4s: compliance;
(21) §122.37: NPDES stormwater regulations for small MS4s: evaluation;
(22) §122.41 (a)(1) and (b) through (n): Applicable permit conditions;
(23) §122.42: Conditions applicable to specified categories of permits;
(24) §122.43: Establishing permit conditions;
(25) §122.44: Establishing NPDES permit conditions;
(26) §122.45: Calculating permit conditions;
(27) §122.46: Duration;
(28) §122.47 (a): Schedules of compliance;
(29) §122.48: Monitoring requirements;

Commented [TM1]: Change: Proposed new rule that incorporates multiple federal rules by reference. 40 CFR 123.25 requires approved states to implement most of these regulations, and NC has done so, but the state has yet to formally adopt them. (The same rule is proposed in Subchapter 02B, Sections 02B .0500 and 02H .0100.) **Effect:** In essence, a technical correction, as the state has implemented these rules all along.

(30) §122.50: Disposal into wells;
(31) §122.61: Permit transfer;
(32) §122.62: Permit modification;
(33) §122.64: Permit termination;
(34) §124.3 (a): Application for a permit;
(35) §124.5 (a), (c), (d), and (f): Modification of permits;
(36) §124.6 (a), (c), (d), and (e): Draft permit;
(37) §124.8: Fact sheets;
(38) §124.10 (a)(1)(ii), (a)(1)(iii), (a)(1)(v), (b), (c), (d), and (e): Public notice;
(39) §124.11: Public comments and requests for hearings;
(40) §124.12 (a): Public hearings;
(41) §124.17 (a) and (c): Response to comments;
(42) §124.56: Fact sheets;
(43) §124.57 (a): Public notice;
(44) §124.59: Comments from government agencies;
(45) §124.62: Decision on variances;
(46) 40 CFR Part 125, Subparts A (Technology-Based Treatment Requirements), B (Aquaculture), D (Fundamentally Different Factors), H (Alternative Limitations, CWA Section 316(a)), I (Cooling Water Intake Structures, New Facilities, CWA Section 316(b)), J (Cooling Water Intake Structures, Existing Facilities, CWA Section 316(b)), and N (Cooling Water Intake Structures, Offshore Oil and Gas Facilities, CWA Section 316(b));
(47) 40 CFR Parts 129 (Toxic Pollutant Effluent Standards) and 133 (Secondary Treatment Regulation), and Subchapter N (Effluent Guidelines and Standards);
(48) 40 CFR Part 3: Electronic reporting;
(49) 40 CFR Part 136: Guidelines for establishing test procedures for the analysis of pollutants; and
(50) 40 CFR 401.15: List of toxic pollutants pursuant to CWA Section 307(a)(1).

(b) This rule is not an exclusive list of federal regulations adopted by reference in this Section. Other rules of the Section incorporate some of these same federal regulations for clarity or emphasis and may incorporate additional regulations not listed in Paragraph (a).

History Note: *Authority G.S. 143-211(c); 143-215.1(b)(4); 143B-282(5);*
Eff. <date>.