

REQUEST FOR TECHNICAL CHANGE

AGENCY: Commission for Public Health

RULE CITATION: 15A NCAC 18C .1305

DEADLINE FOR RECEIPT: Friday, March 6, 2020

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may call our office to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following technical changes be made:

In (b), Page 3, line 28, who determines what is a "potential containment source"? Based upon what?

The language on line 28 reads awkwardly to me. Should the "with the" before "potential" be "that have"?

On line 29, what do you mean by "both provided by"? Are you saying the Department will provide a partial list? Are those set forth in another Rule?

On line 30, what is a "water system"? I see the term used throughout the Subchapter, so I assume your regulated public is familiar with the term?

Also on line 30, known to whom?

On line 30, what do you mean by "will be"? Should this be that the PCS' will be listed if they are located within the following areas?

On lines 32-35, delete the language regarding how to locate other rules in the Code. It's not necessary. Just insert a colon after "editions" on line 32.

In (b)(2) and (b)(3), Page 4, I take it you are relying upon the definitions in Rule 02B .0202 for "critical area" and "protected area"?

In (b)(3), line 3, please remove the comma after "streambanks"

In (b)(4), line 5, what is "normal" pool elevation? Does your regulated public know?

In (b)(5), line 7, is "located directly" known to your regulated public?

In (c)(2)(C), line 20, consider replacing "can" with "may"

Amanda J. Reeder
Commission Counsel

Date submitted to agency: February 21, 2020

End the sentence after “editions” on line 23 and an “and” Then delete the language on lines 23-26.

In (c)(3), line 29, what is “foreseeable” here? To whom?

Also on line 29, please insert a comma after “events”

In (c)(6), line 37, what notice is being sent out?

In (c)(7), Page 5, line 2, I suggest replacing “the Rules Governing Public Water Systems 15A NCAC 18C.” with “this Subchapter.”

In (d), line 3, please capitalize “Rule”

On line 4, I believe you should state “... Act of 2018 (AWIA)

And why do you need the language on line 5? Isn’t citing to AWIA sufficient?

If you need to retain the language, please replace the semicolon after “Act)” with a comma.

On line 8, delete “areas specified in”

On line 9, aren’t these deadlines only pertaining to those systems that are coming in under this Paragraph? If so, why not state “SWRRP pursuant to this Paragraph shall be as follows:”

Please end (d)(2), line 11, with an “and” after the semicolon.

In (e), line 13, I take it the term “non-transient, non-community water systems” is known to your regulated public?

In (e)(1), line 16, please insert an “and” after “personnel”

In (e)(2)(C), line 23, please replace the comma after “event” with a semicolon.

In (g), line 30, and (i), line 36, please insert a comma after “(d)”

And so that I’m clear – this Paragraph won’t apply to systems created under Paragraph (f)? So, they will not need to review and update every five years?

Was the language in Paragraph (h) added as a result of public comment?

And under what circumstances will this request be made? During inspection?

In (i), line 34, and (j), Page 6, line 1, what is required for this certification? Is this a sworn document?

On line 35, and elsewhere the term is used, is “governing body” a term known to your regulated public?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Amanda J. Reeder
Commission Counsel

Date submitted to agency: February 21, 2020

1 15A NCAC 18C .1305 is Amended as published in 33:11 NCR 958 with changes as follows:

2
3 **15A NCAC 18C .1305 SOURCE WATER PROTECTION PLANNING**

4
5 (a) ~~In compliance with G.S. 130A-320, every supplier of water operating a public water system treating and furnishing~~
6 ~~water from a surface water source shall create and implement a Source Water Protection Plan (SWPP) based upon the~~
7 ~~following schedule:~~

8 (1) ~~Water systems that have a single source of supply and a source susceptibility rating of higher or~~
9 ~~moderate, as determined by the Department, shall create and implement a SWPP by January 1, 2021.~~

10 (2) ~~Water systems that have multiple sources of supply and any source susceptibility rating of higher,~~
11 ~~as determined by the Department, shall create and implement a SWPP by January 1, 2022.~~

12 (3) ~~All other water systems treating and furnishing water from surface water sources shall create and~~
13 ~~implement an SWPP by January 1, 2023.~~

14 (4) ~~Any public water system that begins treating and furnishing water from a surface water source on~~
15 ~~or after January 1, 2021 shall create and implement a SWPP that satisfies the requirements of this~~
16 ~~Rule prior to the commencement of its operations.~~

17 (b) ~~Any public water system required to create and implement a SWPP in accordance with this Rule shall review and~~
18 ~~update their SWPP at three year intervals from the creation deadline specified in Paragraph (a) of this Rule. Updated~~
19 ~~information in the SWPP must address the plan elements listed in Paragraph (c) of this Rule.~~

20 (c) ~~Each SWPP shall contain the following elements:~~

21 (1) ~~A list of potential contaminant sources (PCSs), both provided by the Department and identified by~~
22 ~~the water system, located in the following areas as defined in Classifications and Water Quality~~
23 ~~Standards Applicable to Surface Waters and Wetlands of North Carolina, 15A NCAC 02B .0200,~~
24 ~~which is hereby incorporated by reference, including subsequent amendments and editions and can~~
25 ~~be found at no charge at [http://portal.ncdenr.org/c/document_library/get_file?uuid=f12e8078-b128-](http://portal.ncdenr.org/c/document_library/get_file?uuid=f12e8078-b128-44ce-b55b-fc5e7d876f3c&groupId=38364)~~
26 ~~44ce-b55b-fc5e7d876f3c&groupId=38364;~~

27 (A) ~~within the entire watershed for waters classified as WS I;~~

28 (B) ~~within the critical area and 1,000 feet from perennial streambanks within the protected area~~
29 ~~for waters classified as WS II and WS III;~~

30 (C) ~~within the critical area and 1,000 feet from perennial streambanks, within the protected~~
31 ~~area for waters classified as WS IV;~~

32 (D) ~~within ½ mile from the normal pool elevation in which the intake is located, or to the ridge~~
33 ~~line of the watershed, whichever comes first, for a reservoir within waters classified as WS-~~
34 ~~V; and~~

35 (E) ~~within ½ mile, measured as a straight line, upstream from and draining to the intake located~~
36 ~~directly in the stream or river, or to the ridge line of the watershed, whichever comes first,~~
37 ~~for a direct stream intake within waters classified as WS V.~~

- 1 ~~(2) For community water systems, a contingency strategy that documents the system's planned response~~
2 ~~to an emergency event or contamination of its water source(s) that includes the following:~~
- 3 ~~(A) identification and contact information of personnel responsible for emergency~~
4 ~~management, including water system, local, State, and federal emergency response~~
5 ~~personnel;~~
- 6 ~~(B) identification of foreseeable natural and human caused emergency events including water~~
7 ~~shortages and outages;~~
- 8 ~~(C) description of the emergency response strategies for each identified shortage or outage~~
9 ~~event and each potential contamination event associated with PCSs identified and listed in~~
10 ~~Subparagraph (c)(1) of this Rule;~~
- 11 ~~(D) standard operating procedures to close intakes and switch to an alternate intake during a~~
12 ~~contamination event, including procedures that outline exercises designed to practice~~
13 ~~closure and switching of the intake(s);~~
- 14 ~~(E) description of public notification procedures; and~~
- 15 ~~(F) identification and evaluation of all facilities and equipment that upon failure would result~~
16 ~~in a water outage or violations of the Rules Governing Public Water Systems, 15A NCAC~~
17 ~~18C.~~
- 18 ~~(3) For non-transient, non-community water systems, the contingency strategy shall contain the~~
19 ~~positions and phone numbers of responsible persons to contact in the event of an emergency,~~
20 ~~including water system, local, State, and federal emergency contacts.~~
- 21 ~~(4) An evaluation of a water system's ability to take the following actions:~~
- 22 ~~(A) close its water intake(s) in the event of contamination, including a determination of the~~
23 ~~duration of time the water intake(s) can remain closed while maintaining positive water~~
24 ~~pressure within the distribution system;~~
- 25 ~~(B) isolate or divert contaminated water from its surface water intake(s);~~
- 26 ~~(C) reduce demand by implementing conservation measures during a contamination event.~~
27 ~~Water Shortage Response Plans can be referenced to fulfill this requirement for water~~
28 ~~systems required to prepare a Water Shortage Response Plan under 15A NCAC 02E .0607,~~
29 ~~which is hereby incorporated by reference, including subsequent amendments and editions~~
30 ~~and can be found at no charge at~~
31 ~~<http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quality/chapter%2002%20-%20environmental%20management/subchapter%20e/15a%20ncac%2002e%20.0607.pdf>; and~~
32
33
34 ~~(D) meet demand via alternate sources of supply in the event of contamination or loss of its~~
35 ~~primary water source.~~

1 ~~(5) — Verification of outreach efforts provided to the owners of the PCSs identified in Subparagraph (e)(1)~~
2 ~~of this Rule to raise awareness of the proximity of the drinking water intake(s) and provide~~
3 ~~emergency contact information for use during a contamination event.~~

4 ~~(6) — A description of proactive activities and management strategies designed to protect the source(s)~~
5 ~~from contamination, including documentation of any voluntary source water protection activities~~
6 ~~that have been implemented by the water system.~~

7 ~~(7) — Description of public awareness communication efforts that include the following:~~

8 ~~(A) — publication of the emergency and source water protection planning status, the next revision~~
9 ~~date, and a reference to this Rule in the community water system's annual Consumer~~
10 ~~Confidence Report, as required by 15A NCAC 18C .1538; and~~

11 ~~(B) — notification to any other public water system to which the system is directly interconnected~~
12 ~~of the contingency strategy set forth in Subparagraph (e)(2) of this Rule. A description of~~
13 ~~this communication shall be maintained in the SWPP.~~

14 ~~(d) The supplier of water shall maintain a copy of the current SWPP onsite at each water treatment facility and make~~
15 ~~the SWPP available to personnel responsible for emergency management and operator(s) on duty at all times. The~~
16 ~~SWPP and any associated documentation used in its creation and implementation shall be available for review by~~
17 ~~Section staff upon request.~~

18 ~~(e) The supplier of water shall certify that a SWPP has been created and implemented, and that the water system's~~
19 ~~governing body has been advised of the SWPP creation and implementation. The certification shall be submitted to~~
20 ~~the Department by the deadline specified in Paragraph (a) of this Rule.~~

21 ~~(f) The supplier of water shall certify that a SWPP has been revised and that the water system's governing body has~~
22 ~~been advised of the revision. The certification shall be submitted to the Department by the revision deadline specified~~
23 ~~in Paragraph (b) of this Rule.~~

24 (a) In compliance with G.S. 130A-320, every supplier of water operating a public water system treating and furnishing
25 water from a surface water source shall create and implement a Source Water Protection Plan. For purposes of this
26 Rule, the Source Water Protection Plan required by G.S. 130A-320 shall be referred to as a Source Water Resiliency
27 and Response Plan (SWRRP).

28 (b) The SWRRP shall include a list of potential contaminant sources (PCSs), with the potential to reach surface waters,
29 waters upon release, both provided by the Department and supplemented by the water system if additional PCSs are
30 known to exist by the water system. The listed PCSs will be located in the following areas as defined in Classifications
31 and Water Quality Standards Applicable to Surface Waters and Wetlands of North Carolina, 15A NCAC 02B .0200,
32 which is hereby incorporated by reference, including subsequent amendments and editions and can be found at no
33 charge at [http://portal.ncdenr.org/c/document_library/get_file?uuid=f12e8078-b128-44ec-b55b-](http://portal.ncdenr.org/c/document_library/get_file?uuid=f12e8078-b128-44ec-b55b-fe5e7d876f3e&groupId=38364)
34 [http://reports.oah.state.nc.us/ncac.asp?folderName=\Title%2015A%20-](http://reports.oah.state.nc.us/ncac.asp?folderName=\Title%2015A%20-%20Environmental%20Quality\Chapter%2002%20-%20Environmental%20Management)
35 [http://reports.oah.state.nc.us/ncac.asp?folderName=\Title%2015A%20-](http://reports.oah.state.nc.us/ncac.asp?folderName=\Title%2015A%20-%20Environmental%20Quality\Chapter%2002%20-%20Environmental%20Management)

36 (1) within the entire watershed for waters classified as WS-I;

- 1 (2) within the critical area and 1,000 feet from perennial streambanks within the protected area for
2 waters classified as WS-II and WS-III;
- 3 (3) within the critical area and 1,000 feet from perennial streambanks, within the protected area for
4 waters classified as WS-IV;
- 5 (4) within ½ mile from the normal pool elevation in which the intake is located, or to the ridge line of
6 the watershed, whichever comes first, for a reservoir within waters classified as WS-V; and
- 7 (5) within ½ mile, measured as a straight line, upstream from and draining to the intake located directly
8 in the stream or river, or to the ridge line of the watershed, whichever comes first, for a direct-stream
9 intake within waters classified as WS-V.

10 (c) Any community water system subject to this Rule shall certify completion and implementation of a SWRRP by
11 December 31, 2022. The SWRRP shall contain the following elements:

- 12 (1) identification and contact information of personnel responsible for emergency management,
13 including water system, local, State, and federal emergency response personnel;
- 14 (2) an evaluation of a water system's ability to take the following actions:
 - 15 (A) close its water intake(s) in the event of contamination, including a determination
16 of the duration of time the water intake(s) can remain closed while maintaining
17 positive water pressure within the distribution system;
 - 18 (B) isolate or divert contaminated water from its surface water intake(s);
 - 19 (C) reduce demand by implementing conservation measures during a contamination
20 event. Water Shortage Response Plans can be referenced to fulfill this requirement
21 for water systems required to prepare a Water Shortage Response Plan under 15A
22 NCAC 02E .0607, which is hereby incorporated by reference, including
23 subsequent amendments and editions and can be found at no charge at
24 <http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20quali>
25 [ty/chapter%2002%20-%20environmental%20management/subchapter%20e/15a](http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20management/subchapter%20e/15a)
26 [%20ncac%2002e%20.0607.pdf](http://reports.oah.state.nc.us/ncac/title%2015a%20-%20environmental%20management/subchapter%20e/15a); and
 - 27 (D) meet demand via alternate sources of supply in the event of contamination or loss
28 of its primary water source.
- 29 (3) identification of foreseeable natural and human-caused emergency events including water shortages
30 and outages;
- 31 (4) a description of the emergency response strategies for each identified shortage or outage event and
32 each potential contamination event associated with PCSs identified and listed in Paragraph (b) of
33 this Rule;
- 34 (5) standard operating procedures to close intakes and switch to an alternate intake during a
35 contamination event, including procedures that outline exercises designed to practice closure and
36 switching of the intake(s);
- 37 (6) a description of public notification procedures; and

1 (7) identification and evaluation of all facilities and equipment that upon failure would result in a water
2 outage or violations of the Rules Governing Public Water Systems, 15A NCAC 18C.

3 (d) For community water systems that are subject to this rule and also required to complete a Risk and Resilience
4 Assessment and an Emergency Response Plan under Section 2013 of America’s Water Infrastructure Act (AWIA),
5 which amends Section 1433 of TITLE XIV of the Public Health Service Act (The Safe Drinking Water Act); the
6 system’s Risk and Resilience Assessment and Emergency Response Plan created to comply with AWIA may be
7 referred to as a SWRRP and used to satisfy the requirements of this Rule, if the PCS list was compiled in accordance
8 with areas specified in Paragraph (b) of this Rule. The schedule for certifying completion and implementation of the
9 SWRRP is as follows:

10 (1) by September 30, 2020 for community water systems serving more than 100,000 people;

11 (2) by June 30, 2021 for community water systems serving 50,000 to 99,999 people;

12 (3) by December 30, 2021 for community water systems serving 3,301 to 49,999 people.

13 (e) Non-transient, non-community water systems subject to this Rule shall certify completion and implementation of
14 a SWRRP by December 31, 2022. The SWRRP shall contain the following elements:

15 (1) identification and contact information of personnel responsible for emergency management,
16 including water system, local, State, and federal emergency response personnel;

17 (2) an evaluation of a water system's ability to take the following actions:

18 (A) close its water intake(s) in the event of contamination, including a determination
19 of the duration of time the water intake(s) can remain closed while maintaining
20 positive water pressure within the distribution system;

21 (B) isolate or divert contaminated water from its surface water intake(s);

22 (C) reduce demand by implementing conservation measures during a contamination
23 event, and

24 (D) meet demand via alternate sources of supply in the event of contamination or loss
25 of its primary water source.

26 (f) Any public water system that begins treating and furnishing water from a surface water source on or after December
27 31, 2022 shall create and implement a SWRRP that satisfies the requirements of this Rule prior to the commencement
28 of its operations.

29 (g) Any public water system required to create and implement a SWRRP in accordance with this Rule shall review
30 and update its SWRRP at five-year intervals from its creation deadline, as specified in Paragraph (c), (d) or (e) of this
31 Rule.

32 (h) The SWRRP and any associated documentation used in its creation and implementation shall be available for
33 review by Department staff upon request.

34 ~~(h)~~ (i) The supplier of water shall certify that a SWRRP has been created and implemented, and that the water
35 system's governing body has been advised of the SWRRP creation and implementation. The certification shall be
36 submitted to the Department by the deadline specified in Paragraphs (c), (d) or (e) of this Rule.

1 (+) (i) The supplier of water shall certify that a SWRRP has been revised and that the water system's governing body
2 has been advised of the revision. The certification shall be submitted to the Department by the revision deadline
3 specified in Paragraph (g) of this Rule.
4

5 *History Note: Authority G.S. 130A-315; 130A-320(c);*
6 *Eff. January 1, 2019.*
7 *Amended Eff. April 1, 2020*
8