

## Article 10.

### North Carolina Drinking Water Act.

#### **§ 130A-311. Short title.**

This Article shall be cited as the "North Carolina Drinking Water Act." (1979, c. 788, s. 1; 1983, c. 891, s. 2.)

#### **§ 130A-312. Purpose.**

The purpose of this Article is to regulate water systems within the State which supply drinking water that may affect the public health. (1979, c. 788, s. 1; 1983, c. 891, s. 2.)

#### **§ 130A-313. Definitions.**

The following definitions shall apply throughout this Article:

- (1) "Administrator" means the Administrator of the United States Environmental Protection Agency.
- (2) "Certified laboratory" means a facility for performing bacteriological, chemical or other analyses on water which has received interim or final certification by either the Environmental Protection Agency or the Department.
- (3) "Contaminant" means any physical, chemical, biological or radiological substance or matter in water.
- (3a) "Department" means the Department of Environmental Quality.
- (4) "Drinking water rules" means rules adopted pursuant to this Article.
- (5) "Federal act" means the Safe Drinking Water Act of 1974, P.L. 93-523, as amended.
- (6) "Federal agency" means any department, agency or instrumentality of the United States.
- (7) "Maximum contaminant level" means the maximum permissible level of a contaminant in water which is delivered to any user of a public water system.
- (8) "National primary drinking water regulations" means primary drinking water regulations promulgated by the Administrator pursuant to the federal act.
- (9) "Person" means an individual, corporation, company, association, partnership, unit of local government, State agency, federal agency or other legal entity.
- (10) "Public water system" means a system for the provision to the public of water for human consumption through pipes or other constructed conveyances if the system serves 15 or more service connections or which regularly serves 25 or more individuals. The term includes:
  - a. Any collection, treatment, storage or distribution facility under control of the operator of the system and used primarily in connection with the system; and
  - b. Any collection or pretreatment storage facility not under the control of the operator of the system that is used primarily in connection with the system.

A public water system is either a "community water system" or a "noncommunity water system" as follows:

- a. "Community water system" means a public water system that serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents.

- b. "Noncommunity water system" means a public water system that is not a community water system.

A connection to a system that delivers water by a constructed conveyance other than a pipe is not a connection within the meaning of this subdivision under any one of the following circumstances:

- a. The water is used exclusively for purposes other than residential uses. As used in this subdivision, "residential uses" mean drinking, bathing, cooking, or other similar uses.
- b. The Department determines that alternative water to achieve the equivalent level of public health protection pursuant to applicable drinking water rules is provided for residential uses.
- c. The Department determines that the water provided for residential uses is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable drinking water rules.

- (10a) "Secretary" means the Secretary of Environmental Quality.
- (11) "Supplier of water" means a person who owns, operates or controls a public water system.
- (12) "Treatment technique requirement" means a requirement of the drinking water rules which specifies a specific treatment technique for a contaminant which leads to reduction in the level of the contaminant sufficient to comply with the drinking water rules. (1979, c. 788, s. 1; 1983, c. 891, s. 2; 1987, c. 704, s. 2; 1993 (Reg. Sess., 1994), c. 776, s. 14; 1997-30, s. 1; 1997-443, s. 11A.81A; 2012-200, s. 10; 2015-241, ss. 14.30(u), (v).)

#### **§ 130A-314. Scope of the Article.**

(a) The provisions of this Article shall apply to each public water system in the State unless the public water system meets all of the following conditions:

- (1) Consists only of distribution and storage facilities and does not have any collection and treatment facilities;
- (2) Obtains all of its water from, but is not owned or operated by, a public water system to which the drinking water rules apply;
- (3) Does not sell water to any person; and
- (4) Is not a carrier which conveys passengers in interstate commerce.

(b) A provision of any charter granted to a public water system in conflict with the provisions of this Article is repealed. (1979, c. 788, s. 1; 1983, c. 891, s. 2.)

#### **§ 130A-315. Drinking water rules; exceptions; limitation on implied warranties.**

(a) The Commission shall adopt and the Secretary shall enforce drinking water rules to regulate public water systems. The rules may distinguish between community water systems and noncommunity water systems.

(b) The rules shall:

- (1) Specify contaminants which may have an adverse effect on the public health;
- (2) Specify for each contaminant either:

- a. A maximum contaminant level which is acceptable in water for human consumption, if it is feasible to establish the level of the contaminant in water in public water systems; or
  - b. One or more treatment techniques which lead to a reduction in the level of contaminants sufficient to protect the public health, if it is not feasible to establish the level of the contaminants in water in a public water system; and
- (3) Establish criteria and procedures to assure a supply of drinking water which dependably complies with maximum contaminant levels and treatment techniques as determined in paragraph (2) of this subsection. These rules may provide for:
- a. The minimum quality of raw water which may be taken into a public water system;
  - b. A program of laboratory certification;
  - c. Monitoring and analysis;
  - d. Record-keeping and reporting;
  - e. Notice of noncompliance, failure to perform monitoring, variances and exemptions;
  - f. Inspection of public water systems; inspection of records required to be kept; and the taking of samples;
  - g. Criteria for design and construction of new or modified public water systems;
  - h. Review and approval of design and construction of new or modified public water systems;
  - i. Siting of new public water system facilities;
  - j. Variances and exemptions from the drinking water rules; and
  - k. Additional criteria and procedures as may be required to carry out the purpose of this Article.
- (b1) The rules may also establish criteria and procedures to insure an adequate supply of drinking water. The rules may:
- (1) Provide for record keeping and reporting.
  - (2) Provide for inspection of public water systems and required records.
  - (3) Establish criteria for the design and construction of new public water systems and for the modification of existing public water systems.
  - (4) Establish procedures for review and approval of the design and construction of new public water systems and for the modification of existing public water systems.
  - (4a) Limit the number of service connections to a public water system based on the quantity of water available to the public water system, provided that the number of service connections shall not be limited for a public water system operating in accordance with a local water supply plan that meets the requirements of G.S. 143-355(l).
  - (5) Establish criteria and procedures for siting new public water systems.
  - (6) Provide for variances and exemptions from the rules.
  - (7) Provide for notice of noncompliance in accordance with G.S. 130A-324.

(b2) Two or more water systems that are adjacent, that are owned or operated by the same supplier of water, that individually serve less than 15 service connections or less than 25 persons but that in combination serve 15 or more service connections or 25 or more persons, and that individually are not public water systems shall meet the standards applicable to public water systems for the following contaminants: coliform bacteria, nitrates, nitrites, lead, copper, and other inorganic chemicals for which testing and monitoring is required for public water systems on 1 July 1994. The standards applicable to these contaminants shall be enforced by the Commission as though the water systems to which this subsection applies were public water systems.

(b3) The Department shall not certify or renew a certification of a laboratory under rules adopted pursuant to subdivision (3)b. of subsection (b) of this section unless the laboratory offers to perform composite testing of samples taken from a single public water supply system for those contaminants that the laboratory is seeking certification or renewal of certification to the extent allowed by regulations adopted by the United States Environmental Protection Agency.

(c) The drinking water rules may be amended as necessary in accordance with required federal regulations.

(d) When a person that receives water from a public water system is authorized by the Utilities Commission, pursuant to G.S. 62-110(g), to charge for the costs of providing water or sewer service, that person shall not be subject to regulation under this Article solely as a result of submetering and billing for water service. The supplying water system shall perform the same level of monitoring, analysis, and record keeping that the supplying system would perform if the providing water system had not been authorized to charge for the costs of providing water or sewer service pursuant to G.S. 62-110(g).

(e) When a public water system supplies water through a master meter to a water system not regulated by this Article, the supplying water system is not responsible for operation, maintenance, or repair of the providing water system. The supplying water system shall not be responsible for contamination that is confined to the providing water system if the supplying water system meets applicable requirements for water quality, treatment, and system operation for that contaminant. The supplying water system may monitor the water within the providing water system for contamination pursuant to rules adopted under this Article. The supplying water system and the Department shall have access to the providing water system to investigate water quality problems and to determine whether any contamination is confined to the providing water system and whether the quality of the water supplied by the supplying water system is contributing contamination to the providing water system.

(f) If water in the providing water system exceeds the maximum contaminant levels established pursuant to this Article and the Department determines that the supplying water system is not responsible, the supplying water system must notify the providing water system owner in writing within one day of determining that the contamination is confined solely to the providing water system for bacteria, nitrate, and nitrite, and within 30 days for all other contaminants.

(g) A supplier of water regulated under this Article shall not be deemed to provide any warranty under Article 2 of Chapter 25 of the General Statutes, including an implied warranty of merchantability or an implied warranty of fitness for a particular purpose. (1979, c. 788, s. 1; 1983, c. 891, s. 2; 1985, c. 417, ss. 1, 2; 1991 (Reg. Sess., 1992), c. 826, s. 1; 1993 (Reg. Sess., 1994), c. 776, s. 15; 1995, c. 25, s. 1; 2000-172, s. 1.1; 2001-502, s. 6; 2004-143, s. 8; 2008-140, s. 1.)

## **§ 130A-316. Department to examine waters.**

The Department shall examine all waters and their sources and surroundings which are used as, or proposed to be used as, sources of public water supply to determine whether the waters and their sources are suitable for use as public water supply sources. (1979, c. 788, s. 1; 1983, c. 891, s. 2.)

**§ 130A-317. Department to provide advice; submission and approval of public water system plans.**

(a) The Department shall advise all persons and units of local government locating, constructing, altering or operating or intending to locate, construct, alter or operate a public water system of the most appropriate source of water supply and the best practical method of purifying water from that source having regard to the present and prospective needs and interests of other persons and units of local government which may be affected. The Department shall also advise concerning accepted engineering practices in the location, construction, alteration and operation of public water systems.

(b) All persons and units of local government constructing or altering a public water system shall give prior notice and submit plans, specifications and other information to the Department. The Commission shall adopt rules providing for the amount of prior notice required to be given and the nature and detail of the plans, specifications and other information required to be submitted. The Commission shall take into consideration the complexity of the construction or alteration which may be involved and the resources of the Department to review the plans, specifications and other information. The Department shall review the plans, specifications and other information, and notify the person, Utilities Commission and unit of local government of compliance or lack of compliance with applicable statutes and rules of the Commission.

(c) No person or unit of local government shall begin construction or alteration of a public water system or award a contract for construction or alteration unless all of the following conditions are met:

- (1) The plans for construction or alteration have been prepared by an engineer licensed by this State.
- (2) The Department has determined that the system, as constructed or altered, will be capable of compliance with the drinking water rules.
- (3) The Department has determined that the system is capable of interconnection at an appropriate time with an expanding municipal, county or regional system.
- (4) The Department has determined that adequate arrangements have been made for the continued operation, service and maintenance of the public water system.
- (5) The Department has approved the plans and specifications.

(d) Municipalities, counties, local boards or commissions, water and sewer authorities, or groups of municipalities and counties may establish and administer within their utility service areas their own approval program in lieu of State approval of water system plans required in subsection (c) of this section for construction or alteration of the distribution system of a proposed or existing public water system, subject to the prior certification of the Department. For purposes of this subsection, the service area of a municipality shall include only that area within the corporate limits of the municipality and that area outside a municipality in its extraterritorial jurisdiction where water service is already being provided to the permit applicant by the municipality or connection to the municipal water system is immediately available to the applicant; the service areas of counties and the other entities or groups shall include only those areas where water service is already being provided to the applicant by the permitting authority or

connection to the permitting authority's system is immediately available. No later than the 180th day after the receipt of an approval program and statement submitted by any local government, commission, authority, or board, the Department shall certify any local program that meets all of the following conditions:

- (1) Provides by ordinance or local law for requirements compatible with those imposed by this Article, and the standards and rules adopted pursuant to this Article.
  - (2) Provides that the Department receives notice and a copy of each application for approval and that the Department receives copies of approved plans.
  - (3) Provides that plans and specifications for all construction and alterations be prepared by or under the direct supervision of an engineer licensed to practice in this State.
  - (4) Provides for the adequate enforcement of the program requirements by appropriate administrative and judicial process.
  - (5) Provides for the adequate administrative organization, engineering staff, financial and other resources necessary to effectively carry out its plan review program. A local government, commission, authority, or board may either employ an engineer licensed under Chapter 89C of the General Statutes to practice as a professional engineer in the State or contract with an engineer licensed under Chapter 89C of the General Statutes to practice as a professional engineer in the State in order to provide for adequate engineering staff under this subdivision.
  - (6) Provides that the system is capable of interconnection at an appropriate time with an expanding municipal, county, or regional system.
  - (7) Provides for the adequate arrangement for the continued operation, service, and maintenance of the public water system.
  - (8) Provides that an approved system, as constructed or altered, will be capable of compliance with the drinking water rules.
  - (9) Is approved by the Department as adequate to meet the requirements of this Article and any applicable rules adopted pursuant to this Article.
- (e) The Department may deny, suspend, or revoke the certification of a local program upon a finding that a violation of the provisions in subsection (d) of this section has occurred. A local government administering an approval program shall be given notice that there has been a tentative decision to deny, suspend, or revoke certification and that an administrative hearing will be held in accordance with Chapter 150B of the General Statutes where the decision may be challenged. If a violation of the provisions in subsection (d) of this section presents an imminent hazard, certification may be suspended or revoked immediately. The Department shall give notice of the immediate suspension or revocation and notice that an administrative hearing will be held in accordance with Chapter 150B of the General Statutes where the decision may be challenged.
- (f) Notwithstanding any other provisions of subsection (d) of this section, if the Department determines that a public water system is violating plan approval requirements of a local program and that the local government has not acted to enforce those approval requirements, the Department may, after written notice to the local government, take enforcement action in accordance with the provisions of this Article.
- (g) The Department shall identify systems meeting all of the following criteria:

- (1) As constructed or altered, the system appears capable of interconnectivity with another system or systems located within the same river basin, as set out in G.S. 143-215.22.
- (2) The system appears to have adequate unallocated capacity to expand.
- (3) Interconnectivity would promote public health, protect the environment, or ensure compliance with established drinking water rules.

The Department shall notify the identified systems of the potential for interconnectivity in the future. The systems so notified may discuss options for potential interconnectivity, including joint operations, regionalization, or merger. The Local Government Commission shall be copied on the notice from the Department and shall assist the systems with any questions regarding liabilities of the systems and alterations to the operational structure of the systems. (1979, c. 788, s. 1; 1983, c. 891, s. 2; 1985, c. 697, s. 1; 1987, c. 827, s. 1; 2006-238, s. 1; 2015-241, s. 14.14A(a).)

#### **§ 130A-318. Disinfection of public water systems.**

- (a) The Department is authorized to require disinfection of:
  - (1) Public water systems introduced on or after January 1, 1972; and
  - (2) All public water systems, regardless of the date introduced, whenever:
    - a. The maximum microbiological contaminant level is exceeded; or
    - b. Conditions exist which make continued use of the water potentially hazardous to public health.
- (b) Public water systems shall employ disinfection methods and procedures approved by the Department. (1979, c. 788, s. 1; 1983, c. 891, s. 2.)

#### **§ 130A-319. Condemnation of lands for public water systems.**

All units of local government operating public water systems and all water companies operating under franchise from the State or units of local government, may acquire by condemnation lands and rights in lands and water necessary for the successful operation and protection of their systems. Condemnation proceedings under this section shall be the same as prescribed by law under Chapter 40A of the General Statutes. (1979, c. 788, s. 1; 1981, c. 919, s. 14; 1983, c. 891, s. 2.)

#### **§ 130A-320. Sanitation of watersheds; rules; inspections; local source protection planning.**

(a) The Commission shall adopt rules governing the sanitation of watersheds from which public drinking water supplies are obtained. In adopting these rules the Commission is authorized to consider the different classes of watersheds, taking into account general topography, nature of watershed development, density of population and need for frequency of sampling of raw water. The rules shall govern the keeping of livestock, operation of recreational areas, maintenance of residences and places of business, disposal of sewage, establishment of cemeteries or burying grounds, and any other factors which would endanger the public water supply.

(b) Any supplier of water operating a public water system and furnishing water from unfiltered surface supplies shall inspect the watershed area at least quarterly, and more often when the Department determines that more frequent inspections are necessary.

(c) Every supplier of water operating a public water system treating and furnishing water from surface supplies shall create and implement a source water protection plan (SWPP). The Commission shall adopt rules that provide all of the following:

- (1) A standardized format for use by suppliers of water in creating their SWPP. The Commission may create different formats and required plan elements for public water systems based on the system type, source type, watershed classification, population served, source susceptibility to contamination, proximity of potential contamination sources to the intake, lack of water supply alternatives, or other characteristics the Commission finds to be relevant.
- (2) Schedules for creating a SWPP, implementing mandatory provisions of the SWPP, and for review and update of the SWPP by suppliers of water.
- (3) Reporting requirements sufficient for the Department to monitor the creation, implementation, and revision by suppliers of water. The Commission may provide different reporting requirements based on the public water system characteristics set forth in subdivision (1) of this subsection. (1979, c. 788, s. 1; 1983, c. 891, s. 2; 2014-41, s. 1; 2014-115, s. 55.5.)

**§ 130A-321. Variances and exemptions; considerations; duration; condition; notice and hearing.**

- (a) The Secretary may authorize variances from the drinking water rules.
  - (1) The Secretary may grant one or more variances to a public water system from any requirement respecting a maximum contaminant level of an applicable drinking water rule upon a finding that:
    - a. Because of characteristics of the raw water sources reasonably available to the system, the system cannot meet the requirements respecting the maximum contaminant levels of the drinking water rules after application of the best technology, treatment techniques, or other means which the Secretary finds are available (taking costs into consideration); and
    - b. The granting of a variance will not result in an unreasonable risk to public health when considering the population exposed, the projected duration of the requested variance and the degree to which the maximum contaminant level is being or will be exceeded.
  - (2) The Secretary may grant one or more variances to a public water system from any requirement of a specified treatment technique of an applicable drinking water rule upon a finding that the public water system applying for the variance has demonstrated that the treatment technique is not necessary to protect the public health because of the nature of the raw water source of the system.
  - (3) In consideration of whether the public water system is unable to comply with a contaminant level required by the drinking water rules because of the nature of the raw water sources, the Secretary shall consider factors such as:
    - a. The availability and effectiveness of treatment methods for the contaminant for which the variance is requested; and
    - b. Costs of implementing the best treatment(s), improving the quality of the raw water by the best means or using an alternate source.
  - (4) In consideration of whether a public water system should be granted a variance from a required treatment technique because the treatment is unnecessary to protect the public health, the Secretary shall consider factors such as:

- a. Quality of the water source including water quality data and pertinent sources of pollution; and
  - b. Source protection measures employed by the public water system.
- (5) In order to implement sub-subdivision a. of subdivision (1) of this subsection, the Commission shall adopt by rule a list of the best available technologies, treatment techniques, or other means available, to deal with each contaminant for which a maximum contaminant level is established.
- (b) The Secretary may authorize exemptions from the drinking water rules.
  - (1) The Secretary may exempt a public water system from any requirement respecting a maximum contaminant level or any treatment technique requirement, or from both, of an applicable drinking water rule upon a finding that:
    - a. Due to compelling factors, including economic factors, the public water system is unable to comply with the contaminant level or treatment technique requirement;
    - b. The public water system was in operation on the effective date of the contaminant level or treatment technique requirement or, for a system that was not in operation on that date, only if no reasonable alternative source of drinking water is available to the new system; and
    - c. The granting of the exemption will not result in an unreasonable risk to public health when considering the population exposed, the projected duration of the requested exemption and the degree to which the maximum contaminant level is being or will be exceeded.
  - (2) In consideration of whether the public water system is unable to comply due to compelling factors, the Secretary shall consider factors such as:
    - a. Construction, installation or modification of treatment equipment or systems;
    - b. The time needed to put into operation a new treatment facility to replace an existing system which is not in compliance; and
    - c. Economic feasibility of immediate compliance.
- (c) As a condition of issuance of either a variance or an exemption, the Secretary shall issue a schedule of compliance for the public water system, including increments of progress for each drinking water rule for which the variance or exemption was issued. As a further condition of a variance or exemption, the Secretary shall require the public water system to implement any necessary control measures prescribed by the Secretary during the period of the variance or exemption. The compliance schedule for an exemption shall require compliance as expeditiously as practical but no later than June 19, 1987, for existing maximum contaminant levels and treatment techniques, or no later than one year from the issuance of the exemption for any newly adopted maximum contaminant level or treatment technique. The final date for compliance provided in any exemption schedule may be extended up to three years after the date of the issuance of the exemption if the water system establishes:
  - (1) The water system cannot meet the standard without capital improvements which cannot be completed within the period of exemption, or
  - (2) The system needs financial assistance for necessary improvements and has entered into an agreement to obtain such assistance, or

- (3) The system has entered into an enforceable agreement to become part of a regional public water system and the system is taking all practical steps to meet the standard.

If a public water system serves 500 or fewer service connections and needs financial assistance for necessary improvements, an exemption may be renewed for one or more additional two-year periods if the system establishes it meets the requirements set forth in subdivisions (1) and (2) of this section.

(d) The Secretary shall provide notice and opportunity for public hearing on proposed variances and proposed variance and exemption schedules. (1979, c. 788, s. 1; 1981, c. 353, ss. 1, 2; 1983, c. 891, s. 2; 1987, c. 704, ss. 3-5.)

**§ 130A-322. Imminent hazard; power of the Secretary.**

(a) The Secretary shall judge whether an imminent hazard exists concerning a present or potential condition in a public water system.

(b) In order to eliminate an imminent hazard, the Secretary may, without notice or hearing, issue an order requiring the person or persons involved to immediately take action necessary to protect the public health. A copy of the order shall be delivered by certified mail or personal service. The order shall become effective immediately and shall remain in effect until modified or rescinded by the Secretary or by a court of competent jurisdiction. (1979, c. 788, s. 1; 1983, c. 891, s. 2.)

**§ 130A-323. Emergency plan for drinking water; emergency circumstances defined.**

(a) The Secretary shall develop and implement an adequate plan for the provision of drinking water under emergency circumstances. When the Secretary determines that emergency circumstances exist with respect to a need for drinking water, the Secretary may take action in accordance with the plan as necessary in order to provide drinking water.

(b) Emergency circumstances shall exist whenever the available supply of drinking water is inadequate. (1979, c. 788, s. 1; 1983, c. 891, s. 2.)

**§ 130A-324. Notice of noncompliance; failure to perform monitoring; variances and exemptions.**

Whenever a public water system:

- (1) Is not in compliance with the drinking water rules;
- (2) Fails to perform an applicable testing procedure or monitoring required by the drinking water rules;
- (3) Is subject to a variance granted for inability to meet a maximum contaminant level requirement;
- (4) Is subject to an exemption; or
- (5) Fails to comply with the requirements prescribed by a variance or exemption,

the supplier shall as soon as possible, but not later than 48 hours after discovery, notify the Department and give public notification as prescribed by the drinking water rules. (1979, c. 788, s. 1; 1983, c. 891, s. 2.)

**§ 130A-325. Prohibited acts.**

The following acts are prohibited:

- (1) Failure by a supplier of water to comply with this Article, an order issued under this Article, or the drinking water rules;
- (2) Failure by a supplier of water to comply with the requirements of G.S. 130A-324 or the dissemination by a supplier of any false or misleading information with respect to remedial actions being undertaken to achieve compliance with the drinking water rules;
- (3) Refusal by a supplier of water to allow the Department or local health department to inspect a public water system as provided for in G.S. 130A-17;
- (4) The willful defiling by any person of any water supply of a public water system or the willful damaging of any pipe or other part of a public water system;
- (5) The discharge by any person of sewage or other waste above the intake of a public water system, unless the sewage or waste has been passed through a system of purification approved by the Department ; and
- (6) The failure by a person to maintain a system approved by the Department for collecting and disposing of all accumulations of human excrement located on the watershed of a public water system. (1979, c. 788, s. 1; 1983, c. 891, s. 2; 1985, c. 462, s. 2; 1989, c. 727, s. 146.)

#### **§ 130A-326. Powers of the Secretary.**

To carry out the provisions of this Article, the Secretary is authorized to:

- (1) Administer and enforce the provisions of this Article, the drinking water rules and orders issued under this Article;
- (2) Enter into agreements or cooperative arrangements with, or participate in related programs of other states, other state agencies, federal or interstate agencies, units of local government, educational institutions, local health departments or other organizations or individuals;
- (3) Receive financial and technical assistance from the federal government and other public or private agencies;
- (4) Require public water systems to take actions or make modifications as necessary to comply with the requirements of this Article or the drinking water rules;
- (5) Prescribe policies and procedures necessary or appropriate to carry out the Secretary's function under this Article;
- (6) Establish and collect fees to recover the costs of laboratory analyses performed for compliance with this Article. The fees shall not exceed two hundred dollars (\$200.00) for each analysis; and
- (7) Establish and collect fees for certification and certification renewal of laboratories to perform analyses for compliance under this Article. The fees shall not exceed twenty dollars (\$20.00) per analyte certified. The minimum fee for certification or certification renewal shall be two hundred fifty dollars (\$250.00) per analyte category. The maximum fee for certification or certification renewal shall be six hundred dollars (\$600.00) per analyte category. The fees collected under this subdivision shall be used to administer blind performance evaluation samples to certified laboratories to determine compliance with certification requirements. (1979, c. 788, s. 1; 1981, c. 562, s. 9; 1983, c. 891, s. 2; 1987, c. 471; 1991 (Reg. Sess., 1992), c. 1039, s. 10.)

### **§ 130A-327. Construction.**

This Article shall be interpreted as giving the State the authority needed to assume primary enforcement responsibility under the federal act. (1979, c. 788, s. 1; 1983, c. 891, s. 2.)

### **§ 130A-328. Public water system operating permit and permit fee.**

(a) No person shall operate a community or non transient non-community water system who has not been issued an operating permit by the Department. A community or non transient non-community water system operating permit shall be valid from January 1 through December 31 of each year unless suspended or revoked by the Department for cause. The Commission shall adopt rules concerning permit issuance and renewal and permit suspension and revocation. The annual fees in subsection (b) shall be prorated on a monthly basis for permits obtained after January 1 of each year.

(b) The following fees are imposed for the issuance or renewal of a permit to operate a community or non transient non-community water system; the fees are based on the number of persons served by the system:

Non Community Water Systems:	Fee
Base Fee:	
Non transient non-community	\$190
Community Water Systems:	
Number of Persons Served	
50 or fewer	\$320
More than 50 but no more than 100	\$340
More than 100 but no more than 200	\$410
More than 200 but no more than 300	\$430
More than 300 but no more than 400	\$480
More than 400 but no more than 500	\$520
More than 500 but no more than 750	\$970
More than 750 but no more than 1000	\$1,010
More than 1000 but no more than 2000	\$1,050
More than 2000 but no more than 3000	\$1,090
More than 3000 but no more than 4000	\$1,690
More than 4000 but no more than 5000	\$1,830
More than 5000 but no more than 7500	\$2,410
More than 7500 but no more than 10,000	\$2,580
More than 10,000 but no more than 25,000	\$3,250
More than 25,000 but no more than 50,000	\$3,660
More than 50,000 but no more than 75,000	\$5,310
More than 75,000 but no more than 100,000	\$5,840
More than 100,000 but no more than 250,000	\$6,380
More than 250,000 but no more than 500,000	\$6,910
More than 500,000	\$7,440

(c) The following fees are imposed for the review of plans, specifications, and other information submitted to the Department for approval of construction or alteration of a public water system. The fees are based on the type of constructions or alteration proposed:

Distribution system:	Fee
Construction of water lines, less than 5000 linear feet	\$300
Construction of water lines, 5000 linear feet or more	\$400
Other construction or alteration to a distribution system	\$150

Ground water system:	
Construction of a new ground water system or adding a new well	\$400
Alteration to an existing ground water system	\$200

Surface Water system:	
Construction of a new surface water treatment facility	\$500
Alteration to an existing surface water treatment facility	\$300
Water System Management Plan review	\$150
Miscellaneous changes or maintenance not covered above	\$100

(c1) The Department shall perform a review of an application for a water distribution system authorization subject to the following requirements:

- (1) The Department shall review the application within 45 days of receipt of a complete application when a professional engineer provides certification that the design meets or exceeds the Minimum Design Criteria developed by the Department applicable to the project. For purposes of this section, a complete application is defined as an application that includes all of the required components described in the application form.
- (2) The Department shall perform an administrative review of a new application within 10 days of receipt to determine if all required information is included in the application. If the application is complete, the Department shall issue a receipt letter or electronic response stating that the application is complete and that a 45-calendar day technical review period has started as of the date on which the Department received the complete application. If required items or information are not included in the application, the application is incomplete, and the Department shall issue an application receipt letter or electronic response identifying the information required to complete the application before the technical review begins. When the Department receives the required information, the Department shall issue a receipt letter or electronic response specifying that the application is complete and that the 45-calendar day review period has started as of the date on which the Department received the remaining required information.
- (3) If additional information is required to complete the technical review, the Department shall issue a request for additional information required to complete the review, and the 45-calendar day technical review period shall pause until the additional information is received. If the Department does not receive the requested additional information from the applicant within 30 calendar days, the Department shall return the application to the applicant.

- (4) If the Department receives the additional information from the applicant within 30 days, the technical review period review time shall restart, and the Department shall complete its review within the number of days that remained in the technical review period on the date the technical review period was paused by the request for additional information.
  - (5) Should the Department not complete its review of the application within the 45-day technical review period, the application shall be considered deemed approved.
- (d) The Department may charge an administrative fee of up to one hundred fifty dollars (\$150.00) for failure to pay the permit fee by January 31 of each year.
- (e) All fees collected under this section shall be applied to the costs of administering and enforcing this Article. (1991, c. 576, s. 1; 1991 (Reg. Sess., 1992), c. 811, s. 6; c. 1039, s. 11; 2006-66, s. 11.7(a); 2023-134, s. 12.14(f); 2024-49, s. 4.50(a).)

### **§ 130A-329. Reporting.**

Reports required to be submitted under this Article or under rules adopted by the Commission shall be submitted electronically on a form specified by the Department. The Department may waive the requirement for electronic submission of a report if the water system demonstrates that it lacks the technical capability to report electronically. (2008-143, s. 12.)

### **§ 130A-330. Local authority to require backflow preventers; testing.**

(a) No public water system owned or operated by a local government unit, as that term is defined in G.S. 159G-20(13), shall require a customer to install a backflow preventer on an existing nonresidential or residential connection, including multifamily dwellings, not otherwise required by State or federal law except where the degree of hazard from the customer's connection is determined to be high by the Department.

(b) The limitation established in subsection (a) of this section shall not be construed to prohibit requirements for installation of backflow preventers pursuant to the North Carolina Plumbing Code or the North Carolina Fire Code due to retrofit or upfit/fit-up to the customer's plumbing, facility addition on the customer's property, or change in use of the property served by the connection. The single act of a retrofit or upfit/fit-up to the customer's plumbing limited to the service line between the home or building and the meter, and without a change in use or facility addition, does not necessitate a backflow preventer. An increase in the flow of water to the home or building, without a change in use or facility addition, does not necessitate a backflow preventer.

(c) A public water system owned or operated by a local government unit, and its employees, including the Cross Connection Control Operator in Responsible Charge, is immune from civil liability in tort from any loss, damage, or injury arising out of or relating to the backflow of water into potable water supply systems where a backflow preventer is not required by State or federal law, or where the degree of hazard from the customer's connection is not determined to be high by the Department.

(d) The Department shall determine whether the degree of hazard for a service connection is high when the installation of a backflow preventer is not otherwise required by State or federal law. The Department shall provide notice of such determinations on its website.

(e) Nothing in this section shall prohibit a public water system owned or operated by a local government unit from requiring the installation of a backflow preventer if the system pays all

costs associated with the backflow preventer, including the device, installation, and appropriate landscaping.

(f) No public water system owned or operated by a local government unit shall require periodic testing more frequently than once every three years for backflow preventers on residential irrigation systems that do not apply or dispose chemical feeds.

(g) A public water system owned or operated by a local government, and its employees, including the Cross Connection Control Operator in Responsible Charge, is immune from civil liability in tort from any loss, damage, or injury resulting from compliance with the limitations on periodic testing provided in subsection (f) of this section.

(h) A public water system owned or operated by a local government unit may accept the results of backflow preventer testing conducted by a plumbing contractor licensed under Article 2 of Chapter 87 of the General Statutes or a certified backflow prevention assembly tester approved by the public water system.

(i) For purposes of this section, the following definitions apply:

- (1) "Backflow preventer" means an assembly, device, or method that prohibits the backflow of water into potable water supply systems.
- (2) "Certified backflow prevention assembly tester" means a person who holds a certificate of completion from a training program in the testing and repair of backflow preventers.
- (3) "High hazard" means a cross-connection or potential cross-connection involving any substance that could, if introduced into the potable water supply, cause illness or death, spread disease, or have a high probability of causing such effects. (2024-49, s. 1.1(a).)

#### **§ 130A-331. Prohibit duplicative water service shut-off valves.**

All persons and units of local government locating, constructing, altering, or operating, or intending to locate, construct, alter, or operate, a public water system, as defined in G.S. 130A-313, are prohibited from requiring the installation of a redundant inline water service shutoff or cutoff valve between a water service meter and a customer receiving water service within a dwelling subject to the North Carolina Residential Code. This section does not apply to (i) integrated valves attached or located within a water meter box for the purpose of water meter installation, repair, or replacement or (ii) valves installed as an accessible main shutoff valve near the entrance of water service as required by the North Carolina Residential Code. (2024-49, s. 1.2(a).)

#### **§ 130A-332. Reserved for future codification purposes.**