
PROPOSED REMOVAL OF SWAMP CLASSIFICATION & PORTION OF WATER QUALITY MANAGEMENT PLAN FROM PART OF CAPE FEAR RIVER: PUBLIC HEARING SET FOR OCTOBER 2020

Removal of the supplemental Swamp (Sw) classification and removal of a portion of a water quality management plan from a portion of the Cape Fear River in Brunswick and New Hanover Counties (Cape Fear River Basin) has been proposed. A public hearing is going to be conducted to receive public comments on this proposal.

WATERS TO BE AFFECTED

The proposed actions would affect the portion of the Cape Fear River from the upstream mouth of Toomers Creek and Snows Cut, where the Intracoastal Waterway (ICW) meets the river. No tributaries to this section of the river are to be affected by the proposal. Wetlands, developed lands, other open waters, forest lands, shrub/scrub lands, and primarily Class Sw tributaries exist directly adjacent to these waters. In these waters are tidal saltwater species, including the federally endangered shortnose sturgeon and federally endangered Atlantic sturgeon, and eight (8) existing NPDES wastewater discharges.

ASSOCIATED REGULATIONS

The purpose of the entire water quality management plan was to help implement the current permitting policy for new, and expansions of, individual NPDES wastewater discharges. The management plan in conjunction with the Sw designation was intended to help provide a path forward for these wastewater discharges, and thus for local communities, for future planning purposes.

The proposal is a result of the N.C. Environmental Management Commission (EMC) granting a petition from the Cape Fear River Watch and Waterkeeper Alliance to remove the Sw classification from these waters, and is a result of the U.S. Environmental Protection Agency (EPA) disapproving the Sw classification and portion of the associated water quality management plan for these waters. EPA requires that water quality standards, including classifications, that are adopted by states must be approved by EPA, and thus, there would be no regulatory impact from removing the Sw classification or associated portion of the management plan for these waters due to EPA disapproval. Lastly, the proposed rulemaking would provide clarity and transparency regarding the rules applicable to these waters.

ONLINE PUBLIC HEARING

In the abundance of caution, and to address protective measures to help prevent the spread of COVID-19, the hearing will be held online.

Date: Tuesday, October 20, 2020

Time: 6:00 p.m.

(The hearing can be joined starting at 5:45 pm.)

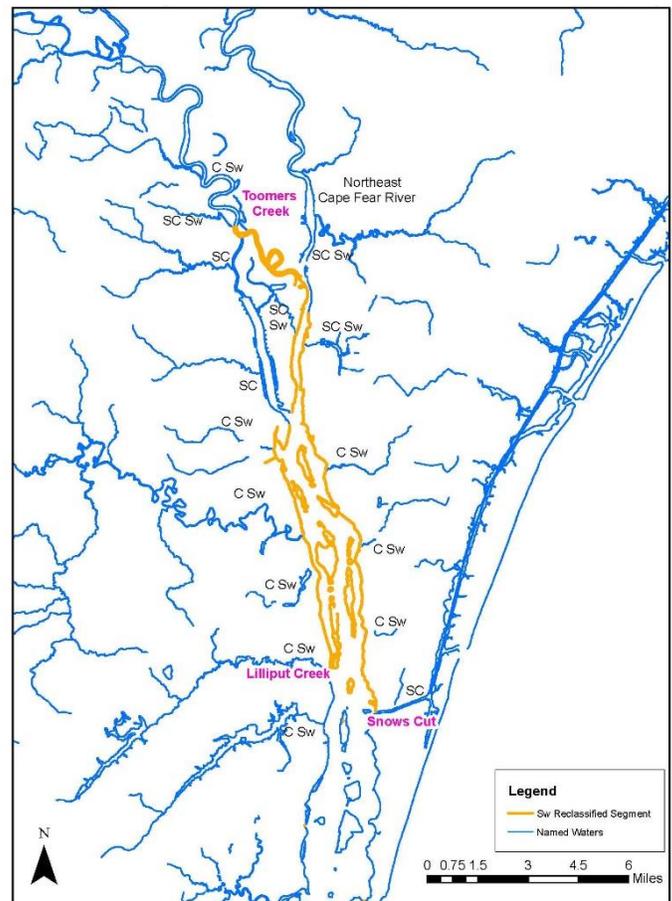
WebEx link: <https://tinyurl.com/yxo91csz>

WebEx password: bpKhm8bjP32

WebEx phone number: 1-415-655-0003

WebEx access code: 161 082 1972

(Please see information below regarding registering for, joining, and commenting at the public hearing.)



ASSOCIATED REGULATIONS (CONTINUED)

If removal of the Sw classification from these waters becomes effective, then the allowable pH and DO standards for Sw waters under natural conditions, of as low as 4.3 and lower than 5.0 mg/l, respectively, would no longer apply. Furthermore, the DO standard of 5 mg/l, and the pH standard range of between 6.8-8.5, which are associated with the primary saltwater (SC) classification of these waters, would not be affected by the proposal. In addition, if removal of the part of the water quality management plan for these waters becomes effective, then for new individual NPDES wastewater facilities and expansions of existing individual NPDES wastewater discharges, the following stipulation would no longer apply: Any new or expanded permitted pollutant discharge of oxygen-consuming waste shall not cause the DO of the receiving water to drop more than 0.1 mg/l below the modeled in-stream DO at total permitted capacity. There are no known planned new individual NPDES wastewater discharges to these waters, and no planned expansions of existing individual NPDES wastewater discharges that require permitting. The proposed effective date for this proposed reclassification is July 1, 2021.

MEETING FEDERAL TRIENNIAL REVIEW REQUIREMENTS

The public hearing and comment period are to be held in accordance with the federal Clean Water Act that requires States, at least every three years, to review and revise water quality standards. These standards are provided in existing rules NCAC 15A 02B .0100 and .0201 through .0228. The process is in accordance with the Triennial Review and includes an assessment and revision of the designated uses of waters (classifications) and the water quality criteria (standards), which are based on the designated uses. More specifically, this public hearing and comment period are to address the potential removal of a Sw classification and portion of a water quality management plan to a portion of the Cape Fear River. This proposal will result in fewer water quality standards applicable to these waters.

HOW TO REGISTER BEFORE THE HEARING AS WELL AS LISTEN TO THE HEARING

All persons interested and potentially affected by the proposal are encouraged to read this announcement, attend the hearing, and make comments on the proposal. The EMC may not adopt a rule that differs substantially from the text of the proposed rule published in the *North Carolina Register* unless the EMC publishes the text of the proposed different rule and accepts comments on the new text.



To register for the hearing and provide a preference about speaking at the hearing, visit <https://tinyurl.com/y6g9hf7a>; **registration must be completed by 12:00 pm on**

October 20, 2020. If you have any problems registering online, please call 919-707-9011 by the registration deadline of 12:00 pm on October 20, 2020.

To listen online, please use the above-mentioned WebEx link and password. Testing your computer's WebEx capabilities is highly recommended prior to the hearing at <https://www.webex.com/test-meeting.html>. For instructions about digital ways to join the public hearing, please refer to the WebEx Help Center online at <https://help.webex.com/en-us/>.

To listen by telephone, please use the above-mentioned WebEx phone number and access code.

HOW TO SUBMIT COMMENTS

To comment during the hearing after your name is called as a registered speaker and/or after the hearing officer asks if any people wish to comment following the registered speakers:

- If you join the hearing by phone, press *3 to “raise your hand,” speak once called upon to do so, and press *3 again to “lower your hand.”

- If you join the hearing online, press the hand icon to “raise your hand,” speak once called upon to do so, and press the hand icon again to “lower your hand.”

- The Hearing Officer may limit the length of time that you may speak, so that all those who wish to speak may do so.

To comment in writing: Comments will be **accepted until November 2, 2020**, and may be submitted to Elizabeth Kountis, Division of Water Resources (DWR) Planning Section, at the postal address and/or e-mail address below.

FOR ADDITIONAL INFORMATION

- about this proposal, visit <https://deq.nc.gov/news/events/public-notice-hearings> (look under “2020-10-20”)

- about classifications and reclassifications, contact **Elizabeth Kountis** at elizabeth.kountis@ncdenr.gov, **DEQ-DWR, Planning Section, 1611 Mail Service Center, Raleigh, NC 27699-1611, phone (919) 707-3685**

