2020 Riparian Buffer Rule Updates Overview

The Big Picture: What’s changing?

- Main Goals of Rule Re-adoption Process:
  - Review all rules for outdated requirements
  - Provide maximum consistency with other NC rules and/or federal regulations
  - No changes to the purpose of the individual rules
  - No changes to who/what is subject to the individual rules
  - Improve and clarify language / address inconsistencies
  - Incorporate recent legislation, declaratory rulings, clarification memos, interpretations
  - Provide maximum consistency between individual Riparian Buffer Rules
  - Reduce/ improve regulatory processes when possible
  - Provide more flexibility to the regulated community
  - Reorganization within Administrative Code

What’s not changing?

- No changes to Jordan Lake Riparian Buffer Rules
  - Unable to revise rules per legislation
- Each Rule has retained its original scope, purpose, and applicability
- Retained all exemptions and existing uses
- No changes to what features are subject to the buffer rules
- No changes to the width or definition of Zone 1 or Zone 2
- Retained the Table of Uses to identify specific activities within the buffers
- No changes to local government delegation/designation authority

What’s New

- Relocation and subdivision of many Rules (Citation cross-reference table)

<table>
<thead>
<tr>
<th>Current Rule Citation</th>
<th>New Citation</th>
</tr>
</thead>
<tbody>
<tr>
<td>15A NCAC 02B .0233 Neuse Buffer Rules</td>
<td>• 15A NCAC 02B .0714 Neuse Maintenance of Existing Riparian Buffers</td>
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<td></td>
<td>• 15A NCAC 02B .0610 Definitions</td>
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<td>• 15A NCAC 02B .0612 Forest Harvesting Requirements</td>
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<td>15A NCAC 02B .0241 Neuse Buffer Rules Delegation</td>
<td>• 15A NCAC 02B .0715 Neuse Buffer Rule Delegation Authority</td>
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</table>
15A NCAC 02B .0259
Tar Pam Buffer Rules

- 15A NCAC 02B .0734 Tar Pam Maintenance of Existing Riparian Buffers
- 15A NCAC 02B .0610 Definitions
- 15A NCAC 02B .0611 Authorization Certificates
- 15A NCAC 02B .0612 Forest Harvesting Requirements

15A NCAC 02B .0261
Tar Pam Buffer Rules Delegation

- 15A NCAC 02B .0735 Tar Pam Buffer Rule Delegation Authority

15A NCAC 02B .0243
Catawba Buffer Rules

- 15A NCAC 02B .0614 Catawba Maintenance of Existing Riparian Buffers
- 15A NCAC 02B .0610 Definitions
- 15A NCAC 02B .0611 Authorization Certificates
- 15A NCAC 02B .0612 Forest Harvesting Requirements

15A NCAC 02B .0250
Randleman Lake Buffer Rules

- 15A NCAC 02B .0724 Randleman Lake Maintenance of Existing Riparian Buffers
- 15A NCAC 02B .0610 Definitions
- 15A NCAC 02B .0611 Authorization Certificates
- 15A NCAC 02B .0612 Forest Harvesting Requirements

15A NCAC 02B .0251
Randleman Lake Stormwater Rules

- 15A NCAC 02B .0721 Randleman Lake Stormwater Requirements

15A NCAC 02B .0605
Goose Creek Buffer Rules: Buffer Widths

- 15A NCAC 02B .0605 Goose Creek Buffer Widths

15A NCAC 02B .0606
Goose Creek Variance Activities

- 15A NCAC 02B .0606 Goose Creek Authorization Certificates

15A NCAC 02B .0607
Goose Creek Buffer Rules

- 15A NCAC 02B .0607 Goose Creek Buffer Types and Managing Activities in Buffers

15A NCAC 02B .0608
Goose Creek Forest Harvesting Activities

- 15A NCAC 02B .0608 Goose Creek Forest Harvesting Activities

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- **Common Elements for Neuse, Tar-Pam, Catawba Relocated into Separate Rules**
  - 15A NCAC 02B .0610 Definitions
    - Updated to reflect the most recent definitions in use
    - Updated to include citations to federal or state regulations for consistency
    - Updated to include prior interpretations (e.g. Pruning)
    - Provided new definitions where necessary (e.g. Existing Utility Line Maintenance Corridor)
  - 15A NCAC 02B .0611 Authorization Certificates
    - Updated to clarify the requirements for applying for, and securing, Authorization Certificates
    - Retained timeframe for Authorities to take action on applications
    - Provided new category for activities that are not listed in the Table of Uses
    - Allowable upon Exception
• **15A NCAC 02B .0612 Forest Harvesting Requirements**
  - Updated to reflect the most recent language from existing buffer rules
  - Updated to provide consistency with non-forest harvesting activities (fertilizer use, Zone 2 allowances)

• **New Categories for better clarity, but definitions and approval process have not changed**

<table>
<thead>
<tr>
<th>Existing Category</th>
<th>New Category</th>
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<tbody>
<tr>
<td>Exempt</td>
<td>Deemed Allowable</td>
</tr>
<tr>
<td>Allowable</td>
<td>Allowable upon Authorization</td>
</tr>
<tr>
<td>Allowable with Mitigation</td>
<td>Allowable with Mitigation upon Authorization</td>
</tr>
<tr>
<td>Prohibited</td>
<td>Prohibited</td>
</tr>
</tbody>
</table>

• **New category: Allowable upon Exception**
  - For any activities that are not specifically listed within the Table of Uses
    - Variances required only for activities listed as Prohibited
  - Requirements (hardships) retained and updated from previous Variance process
  - Mitigation specifically required for all activities within this category
  - Major/Minor exceptions based on total impact acreage rather than Zone location
    - Minor exceptions less than or equal to 1/3 acre of buffer impacts
    - Major exceptions greater than 1/3 acre of buffer impacts
  - All Authorization upon Exceptions approved by implementing Authority
  - Major exceptions must be noticed to the public on DWR website following DWR notice procedures prior to approvals

• **Table of Uses**
  - All footnotes were relocated into appropriate line items
  - Combined roads, driveways and railroads into one line item
    - Simplified to acreage thresholds instead of linear feet
    - Added exemption for Farm Roads to be consistent with 404 regulations
  - Expanded allowances for stormwater control measures within buffer
  - Significant update/revisions to Utility Line Uses
    - Increased allowances for maintenance, repair, emergency response, stream stabilization for protection of utilities
    - Separated categories for rehab/relocation and new line construction
    - Separated vegetation maintenance activities versus line installation activities
- Provided allowances for connecting to existing utilities
- Increased permanent maintenance corridor allowance to 30 feet

**Diffuse Flow**
- Changed to **Stormwater Runoff Through Riparian Buffer**
- Changed references of diffuse flow to dispersed flow as defined in 15A NCAC 02H .1002 Stormwater Rules for consistency between programs
- Conveyances through the buffer from approved SCMs now deemed authorized
- Added activities/uses to allowable upon authorization
  - Allow for new conveyances when nutrient calculations show loading goals of rules can be achieved
  - Allow for new conveyances when flow rate is minimal to account for small areas that cannot be reasonably directed to SCMs due to topography
  - Allow for realignment of existing conveyances
  - Allow for new conveyances for bypass of upslope runoff
  - Expanded allowances for linear transportation facilities
- Provided a process for any stormwater runoff control methods not listed within the rule to be able to be reviewed/considered under Allowable with Exception