



DEQ Draft Revisions to Water Quality and Permitting Regulations Out For Public Comment; July 2 Deadline

May 2018

The Division of Water Resources (DWR) released its latest revisions to portions of 15A NCAC 02B and 02H on December 21, 2017. DWR had previously prepared different versions since their initial draft circulated to stakeholders on April 1, 2017. NCWQA advised members of these developments and submitted extensive written comments to DWR on May 4, 2017. We wanted to give you three updates.

First, DWR carved up different sections of the rule revisions, which are now taking different paths to promulgation. The EMC has agreed to the following final draft rules to be published for public comment: 15A NCAC 02B .0100–.0500, .0601–.0608, .0610–.0614, .0620–.0624, .0714, .0715, .0720–.0722, .0724, .0734, and .0735 and 02H .0100, .0400, .0500, .0900, .1200, and .1300. Other rules, specifically 15A NCAC 02B .0229–.0258 and .0701–.0730, have cleared the WQC but not the full EMC.

Second, DWR introduce changes to the 02B and 02H rule revisions presented last April, some of which are responsive to stakeholder input. Although the majority of the rules received no or insubstantial changes, there were several notable changes:

- 02B .0211 & .0220 – Chlorophyll-a samples now have limits based on a monthly average instead of a single sample.
- 02B .0308 – Changing portions of Catawba River from Class C to Class WS-IV.
- 02B .0311 – Portion of Cape Fear River is designated as a Critical Area (rule revision disclosed for the first time on 12/21/17).
- 02B .0402 – Removed technical correction stating that effluent limitations for pretreatment facilities do not apply to stormwater discharges.
- 02B .0403 – Allows more stringent treatment requirements than minimum for any discharge that is shown through statistical analysis of effluent data to have a reasonable potential to cause or contribute to exceedance of applicable WQS.
- 02B .0505 – Added requirement for “sufficiently sensitive methods,” likely in response to NCWQA’s comments.
- 02B .0607, .0714, 0.724, & 0.734 – Emergency sanitary sewer overflow response may disturb protected buffer areas for up to two months, but any longer than that, and DEQ authorization is required.
- 02B .0611 – New, more stringent buffer rules (first proposed 12/27/17), including requirement for certification that project meets criteria for “no practical alternatives.”
- 02B .0703 – Nutrient offset trading program was substantially changed, but no recommended changes by NCWQA appear to have been adopted.

- 02H .0107 – Dropped provision terminating an application and forfeiture of application fee if application requires additional information, after comment by NCWQA.
- 02H .0109 – Requires public notice of tentative determinations to issue or deny an NPDES permit, which could cause additional delays in the approval process.
- 02H .0115 – Requires Department to maintain confidential information even after information is no longer confidential and there is no basis for withholding the information. Should be harmonized with existing state law on confidential and trade secret information.

Finally, DWR has announced a July 2, 2018 comment period for the following revisions to the Water Supply Watershed Protection Rules and Water Quality Permitting Rules:

| Rules | Description |
|--------------------|---|
| 15A NCAC 02B .0400 | Effluent Limitations |
| 15A NCAC 02B .0500 | Surface Water Monitoring: Reporting |
| 15A NCAC 02B .0600 | Water Quality Management Plans: Goose Creek, Riparian Buffers, Catawba Buffers, |
| 15A NCAC 02B .0700 | Nutrient Strategies: Randleman Lake, Neuse Riparian Buffers, Tar-Pamlico Riparian |
| 15A NCAC 02H .0100 | Point Source Discharges To Surface Waters |
| 15A NCAC 02H .0400 | Coastal Waste Treatment Disposal |
| 15A NCAC 02H .0500 | Water Quality Certification |
| 15A NCAC 02H .0900 | Local Pretreatment Programs |
| 15A NCAC 02H .1200 | Special Orders |
| 15A NCAC 02H .1300 | Discharges To Isolated Wetlands & Waters |

Written comments on the proposed rule changes and associated regulatory impact analyses can be submitted electronically to: publiccomments@ncdenr.gov (please include rule number in email's subject line) or you can mail comments to:

Attn: Julie Ventaloro
 NCDEQ-DEMLR-Stormwater Permitting Program
 1612 Mail Service Center
 Raleigh, NC 27699-1612

Written comments addressing the proposed actions to the rules and associated regulatory impact analyses will be accepted through **Monday, July 2, 2018**. You may also attend the public hearing(s) and present comments on the proposed actions to the rules and associated regulatory impact analyses:

May 23, 2018 at 6:00 PM (speaker registration starts at 5:30)
 Ground Floor Hearing Room
 Archdale Building
 512 N. Salisbury Street
 Raleigh, NC 27604

June 7, 2018 at 6:00 PM (speaker registration starts at 5:30) Piedmont Triad Regional Council
 1398 Carrollton Crossing Drive
 Kernersville, NC 27284

If you should need additional information, please contact the following:

| Rules | | Staff Contact |
|--------------------------|-----------------|--|
| 15A NCAC 02B .0400 | Mike Templeton | (mike.templeton@ncdenr.gov) |
| 15A NCAC 02B .0500 | Mike Templeton | (mike.templeton@ncdenr.gov) |
| 15A NCAC 02B .0601-.0614 | Karen Higgins | (karen.higgins@ncdenr.gov) |
| 15A NCAC 02B .0620-.0624 | Julie Ventaloro | (julie.ventaloro@ncdenr.gov) |
| 15A NCAC 02B .0700 | Karen Higgins | (karen.higgins@ncdenr.gov) |
| 15A NCAC 02H .0100 | Mike Templeton | (mike.templeton@ncdenr.gov) |
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| 15A NCAC 02H .0500 | Karen Higgins | (karen.higgins@ncdenr.gov) |
| 15A NCAC 02H .0900 | Deborah Gore | (deborah.gore@ncdenr.gov) |
| 15A NCAC 02H .1200 | Mike Templeton | (mike.templeton@ncdenr.gov) |
| 15A NCAC 02H .1300 | Karen Higgins | (karen.higgins@ncdenr.gov) |

The hearing announcements for the proposed actions to the rules are located at <https://deq.nc.gov/news/events/public-notice-hearings>. Clicking on this link will take you to DWR's Public Notices and Hearings website, where you can enter one of the above-mentioned public hearing dates under "Starts" and click on "Apply" to see more public hearing information. Copies of the draft rules, regulatory impact analyses, and other information about the rules are available online: <https://deq.nc.gov/permits-regulations/rules-regulations/proposed-rules>.

NCWQA is preparing comments on these rules and will circulate for further member input before submitting them to DEQ during the formal comment period. We expect that the rule changes will go back to the EMC in November for final approval.