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S. DANIEL SMITH
Director

March 15, 2021

TO: DEQ-DWR-Wetlands-Public Listserv

FROM: Jeff Poupart, N.C. Division of Water Resources, Water Quality Permitting Section

RE: Public Hearing for Temporary Rules 15A NCAC 02H .1301 (Revision) and 15A NCAC 02H .1400 (.1401 through .1405)

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The purpose of this Public Notice is outlined below. This notice is available electronically at <http://deq.nc.gov/about/divisions/water-resources/water-resources-permits/wastewater-branch/401-wetlands-buffer-permits/401-public-notices>.

I. Public Notice and Notice of a Public Hearing on March 30, 2021 for Temporary Rules 15A NCAC 02H .1301 (Revision) and 15A NCAC 02H .1400 (.1401 through .1405)

PUBLIC NOTICE is hereby given that, on March 11, 2021, the North Carolina Environmental Management Commission approved the Division of Water Resources (DWR) to initiate rulemaking for Temporary Rules 15A NCAC 02H .1301 (Revision) and 15A NCAC 02H .1400 (.1401 through .1405).

Background: On April 21, 2020, the U.S. Environmental Protection Agency (EPA) and the Department of the Army published the Navigable Waters Protection Rule in the Federal Register to finalize a revised definition of “waters of the United States” under the Clean Water Act (“Federal Rule”). The new Federal Rule became effective on June 22, 2020. As a result of the new Federal Rule, a subset of wetlands classified under State law are no longer subject to federal Clean Water Act jurisdiction. These classified wetlands remain protected by 15A NCAC 02B .0231 - Wetland Standards, but, as a result of the new Federal Rule, there is no permitting mechanism available to authorize impacts. To provide a regulatory mechanism to authorize impacts to wetlands that are no longer federally jurisdictional and to provide regulatory certainty, the Division is undertaking temporary rulemaking.



The public is hereby notified that DWR will hold a public hearing at 6 p.m. on Tuesday, March 30, 2021 via an online WebEx meeting event below. Sign-in will begin at 5:45 p.m. The purpose of this public hearing is to allow interested persons to submit oral comments regarding the DWR's Temporary Rules 15A NCAC 02H .1301 (Revision) and 15A NCAC 02H .1400 (.1401 through .1405).

Register to attend and/or speak at this hearing using the following registration form. *This form will be active until noon on March 30, 2021.*

Registration form: https://forms.office.com/Pages/ResponsePage.aspx?id=31F2etC5mkSFw-zCbNftGRcM2xmuszROiks3JDQp2_RURUlaVzhKViyZMURGVVFSN1VBNUIPOE9SWS4u

WebEx event address for attendees:

<https://ncdenrits.webex.com/ncdenrits/onstage/g.php?MTID=ed98752d9e2287fc790c0ead218c3f3f7>

Event number: 185 837 0615

Event password: inPh6hrMv88

Audio conference: To receive a call back, provide your phone number when you join the event, or call the number below and enter the access code.

+1-415-655-0003, *Access code:* 185 837 0615

The public is also invited to comment in writing on the application. Written comments must be received by DWR no later than 5:00 p.m. on April 12, 2021. Please email written comments to PublicComments@ncdenr.gov. Please include "Wetland Rules" in the email's subject line. Comments may also be submitted in writing to: Sue Homewood, Division of Water Resources, 450 W. Hanes Mill Rd, Winston Salem NC 27107.

The temporary rules are available on DWR's website at:

<https://deq.nc.gov/about/divisions/water-resources/water-resources-regulations-guidance/401-buffer-permitting-statutes>

The temporary rules and supporting documents are also available at the DWR Central Office, located at 512 N. Salisbury St., 9th Floor, Raleigh, NC 26704, and may be inspected with an appointment between 8 am and 5 pm, Monday through Friday, excluding state holidays. For questions or to schedule an appointment, contact Paul Wojoski at Paul.Wojoski@ncdenr.gov. File materials may not be removed from any DWR office; copy machines are available for use upon payment of the cost thereof to DWR pursuant to G.S. 132-6.2.

