

TROUT BUFFER WAIVERS IN NORTH CAROLINA

**Tamera Eplin, PE
Winston-Salem Regional Engineer**

**Stan Aiken, PE
Asheville Regional Engineer**

**Division of Energy, Mineral and Land
Resources**

**NC Erosion and Sediment Control
Workshop
December 6, 2023**



Let's talk about:

- What are trout waters?
- Why is protecting trout waters necessary?
- When are trout buffer waivers or variances necessary?
- Trout moratoriums
- Trout waiver application process
- Design Recommendations
- Where to get more information





What are trout waters?

What are trout waters?



Trout waters are suitable for natural trout propagation and maintenance of stocked trout.



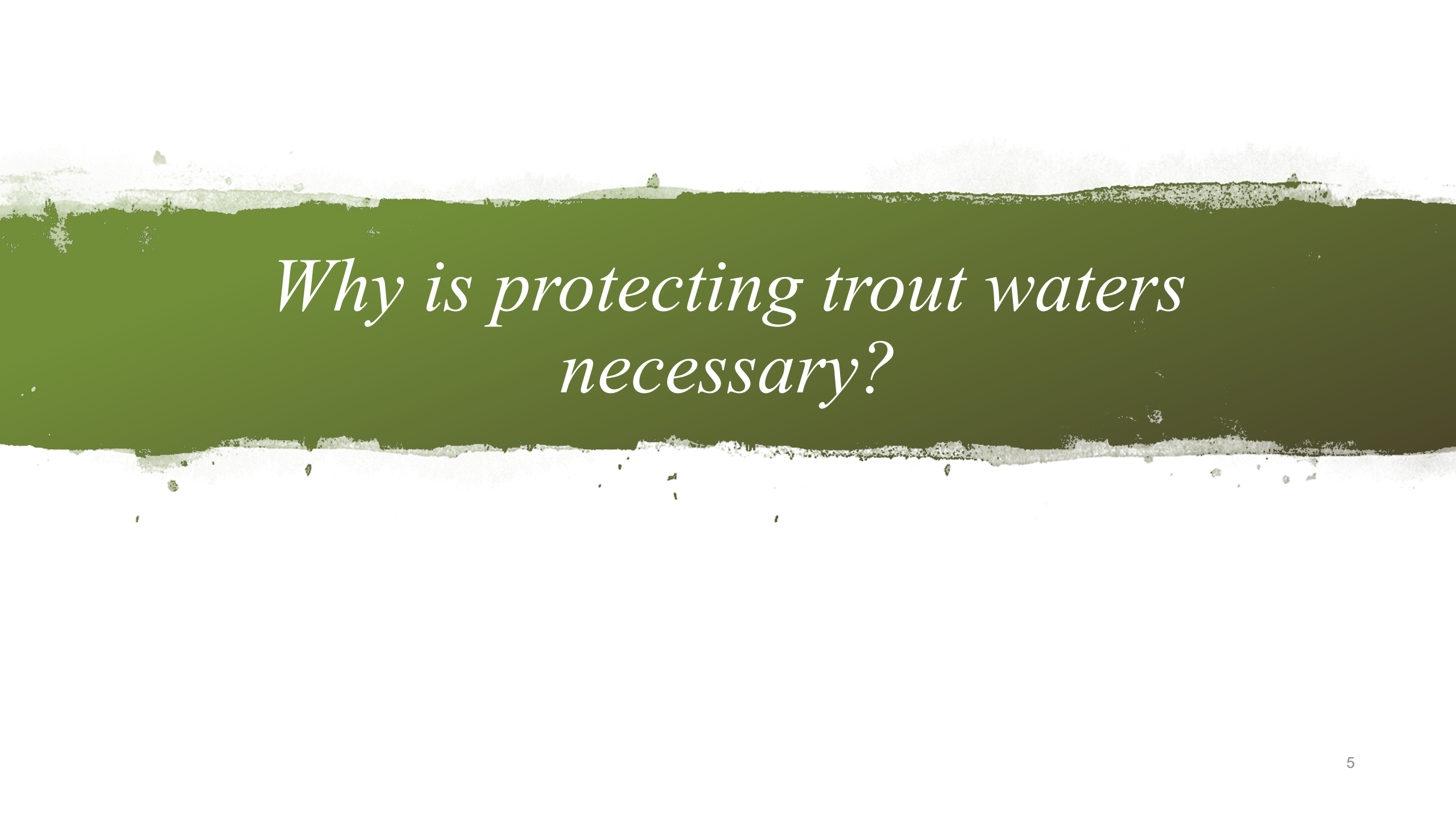
Trout do not need to be present to be classified as trout waters.



All named and unnamed tributaries flowing to the affected trout waters are classified as trout waters



Reference: 15A NCAC 02B .0301



*Why is protecting trout waters
necessary?*

Why is protecting trout waters necessary?

- All impact to trout waters is permanent impact. Trout are extremely sensitive to increases in temperature and turbidity.
- The surface water standard for trout waters is not less than 6.0 mg/l dissolved oxygen and 10 nephelometric turbidity units (NTUs)
- Reference: 15A NCAC 02B .0211

Before and After Impact at a Violation Site



How do I tell if I have trout waters?

NC surface water data is available on-line at

<https://www.deq.nc.gov/about/divisions/water-resources/water-planning/classification-standards/classifications>

Surface Water Classifications:

Stream Index:	5-26-21
Stream Name:	Cove Creek
Description:	From source to Jonathans Creek
Classification:	C;Tr
Date of Class.:	June 30, 1973

Surface Water Classifications:

Stream Index:	5-26-21
Stream Name:	Cove Creek
Description:	From source to Jonathans Creek
Classification:	C;Tr
Date of Class.:	June 30, 1973
What does this Class. mean?	View
River Basin:	French Broad





Trout Buffer Zone Requirements

Trout Buffer Zone Requirements

- A 25-foot minimum width undisturbed buffer zone shall be protected adjacent to trout waters designated by the Environmental Management Commission. The 25-foot width buffer zone shall be measured horizontally from the top of the bank to the nearest area of disturbance.
- Where a temporary and minimal disturbance is permitted as an exception by G.S. 113A-57(1), land-disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of 10 percent of the total length of the buffer zone within the tract and distributed such that there is not more than 100 linear feet of disturbance in each 1000 linear feet of buffer zone.
- Upon a written request of the applicant, the Director may allow a larger area of disturbance than provided in Paragraph (c) of this Rule if the applicant demonstrates that additional measures will be utilized that will achieve an equal or more effective level of erosion and sedimentation control than would be achieved had the specifications prescribed in Paragraph (c) of this Rule been followed.
- No land-disturbing activity shall be undertaken within a buffer zone adjacent to trout waters that is predicted by the approving authority to cause stream temperature violations in these waters as set forth in 15A NCAC 02B .0211 which is hereby incorporated by reference including subsequent amendments and editions.

Reference: 15A NCAC 04B .0125





Trout Buffer Impact



Violation of the 10% Impact Limitation



But what if I plan to disturb less than an acre?

- All land disturbance in North Carolina is subject to the NC Sediment Pollution Control Act (SPCA)
- Trout buffer plans are not limited to the 1-acre threshold for ESC plan submittal requirement.
- Disturbance in trout buffers is subject to buffer requirements, regardless of size, unless categorically exempted from the SPCA as defined in NC General Statute 113A-52.01.



Trout Moratoriums

Trout Moratoriums

- Contact the North Carolina Wildlife Resources Commission (NCWRC) to determine if a moratorium between October 15 and April 15 is applicable.

The contact information is:

Andrea Leslie
Mountain Habitat Conservation Coordinator
NC Wildlife Resources Commission
645 Fish Hatchery Rd., Building B
Marion, NC 28752
828-803-6054 (office)
828-400-4223 (cell)
www.ncwildlife.org



Which would you rather?





Trout Buffer Impacts??

A scenic landscape featuring a bright blue sky with wispy white clouds, rolling green hills in the middle ground, and a calm body of water in the foreground. The water reflects the sky and the surrounding greenery. The overall scene is peaceful and natural.

The Trout Waiver Application Process

The Trout Waiver Application Process



Contact the DEMLR Regional Engineer. **Note responsibility for trout waiver approvals is NOT delegated to the local ESC programs.**



Submit all required materials for a trout buffer waiver submittal prior to the submittal of the associated E&SC plan unless otherwise advised by the Regional Engineer



Please note that there is no statutory deadline for trout buffer waiver reviews. Due to workload and staffing these timelines can extend beyond the 30 and 15 day statutory timelines for E&SC plan submittals.



*Sample Trout
Buffer Waiver
Supplemental
Information
Form*



North Carolina Department of Environment and Natural Resources
Division of Energy, Mineral and Land Resources

**Trout Buffer Waiver
Supplemental Information**

The following information should be completed and submitted with respect to the site requiring the buffer waiver.

Project Name: _____

Owner's Name: _____

Address: _____

Consultant's Name: _____

Address: _____

Stream Name: _____ Water Class: _____

County: _____

Project Purpose: _____

Total Acres of Land-Disturbing Activity: _____ (ac)

Total Acres Disturbed within buffer zone: _____ (ac)

Total Length of Stream on Tract _____ (ft)

Buffer Impacts:

Buffer Width Reduction: _____ (ft)

Vegetation Trimming: _____ (ft)

Channel Piping: _____ (ft)

Channel Relocation: _____ (ft)

Total Length of Buffer Impact: _____ (ft)



DESIGN RECOMMENDATIONS

DESIGN RECOMMENDATIONS

- See handout for detailed recommendations.
- Includes statutory references, applicability, design considerations, required submittal materials, and some additional considerations for buffer-adjacent projects.
- Guidelines for Riparian Buffer Restoration for landscape planting reference.
- Contact the Regional Engineer with any questions or concerns.



MATERIALS TO BE SUBMITTED FOR TROUT BUFFER WAIVER PLAN REVIEW

- Trout Buffer Waiver Supplemental Information Sheet.
- Detailed narrative which explains the purpose and necessity of the project and why it must encroach into the buffer. This narrative should clearly and fully describe, in coordination with the ESC plans, the methods of protecting the waterbody and adjacent buffer both during the proposed construction and the impacts moving forward.
- A very robust erosion and sedimentation control plan which clearly and fully demonstrates the methods of protecting the waterbody and adjacent buffer as required in the laws and rules.
- A detailed construction sequence which demonstrates the method used to minimize the extent and duration of the impact to the buffer and waterbody.
- A thorough landscape plan which includes only plants approved in the Guidelines for Riparian Buffer Restoration as noted.
- Refer to Trout Buffer Design Consideration Handout for more detailed information and guidance.



DEMLR Regional Trout Buffer Waiver Contacts

Asheville Region:

Stan Aiken, PE (828) 296-4610 or stan.aiken@deq.nc.gov

Mooresville Region:

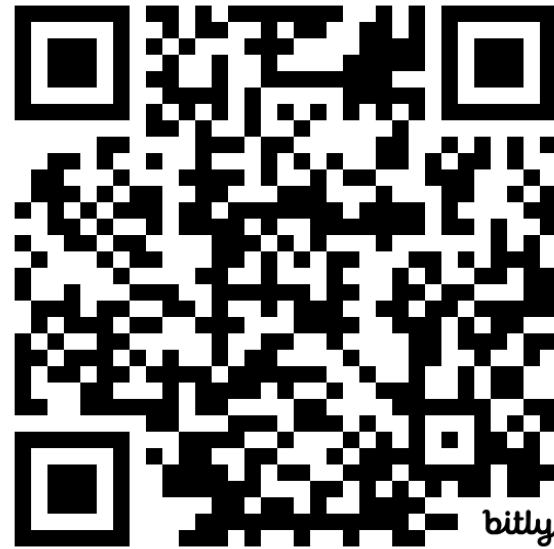
Zahid Khan, (704) 663-1699 or zahid.khan@deq.nc.gov

Winston-Salem Region:

Tamera Eplin, PE (336) 776-9654 or tamera.eplin@deq.nc.gov



*Please
remember to
complete the
End of Workshop
Evaluation*



<https://bit.ly/2023EscEval>

