

Riparian Buffer Rules 101



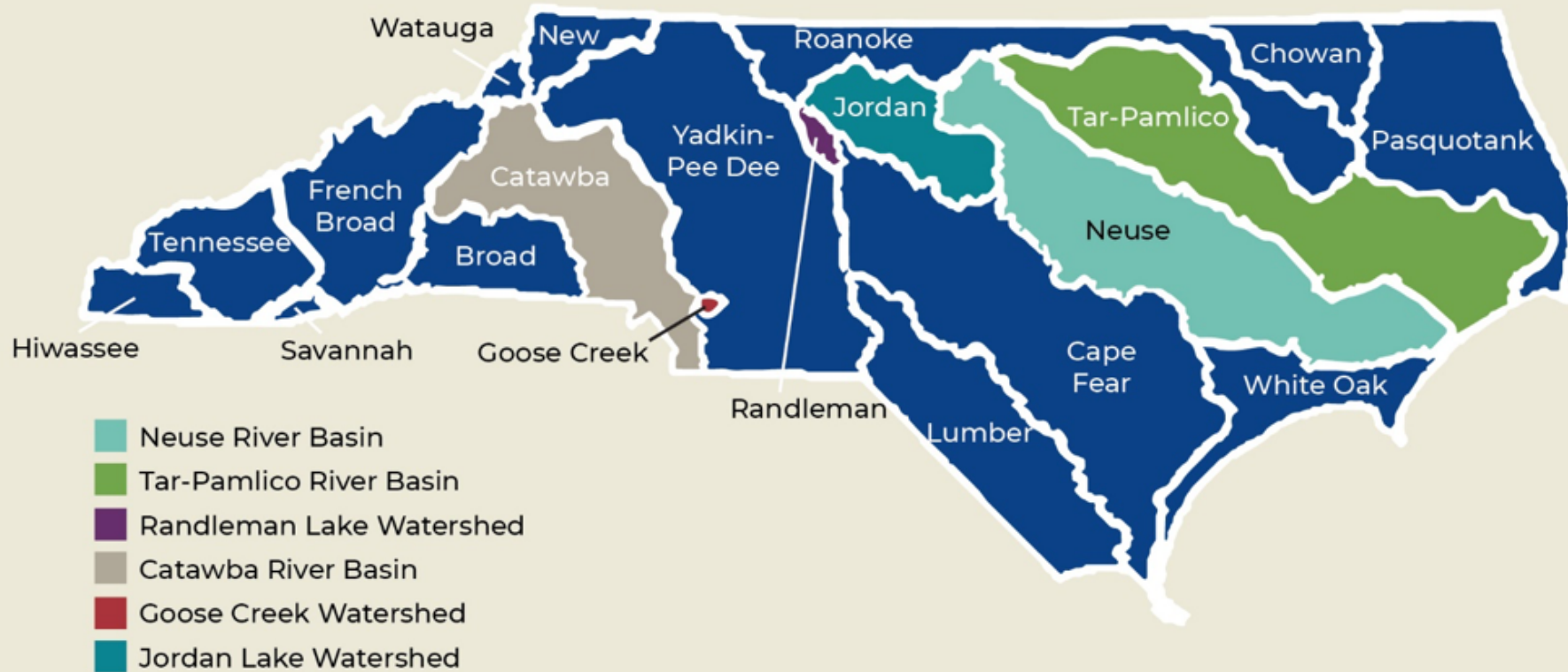
Sue Homewood
NCDWR
2021



Buffer Rule Implementation

- Division of Water Resources (DWR)
 - In some watersheds local governments may request delegation
- Local governments- Jordan Lake & Randleman Lake Watersheds
 - Exceptions for local delegations/designations:
 - Forestry
 - Multi-jurisdictional/boundary projects
 - Government Projects
 - Agriculture

Riparian Buffer Protection Programs

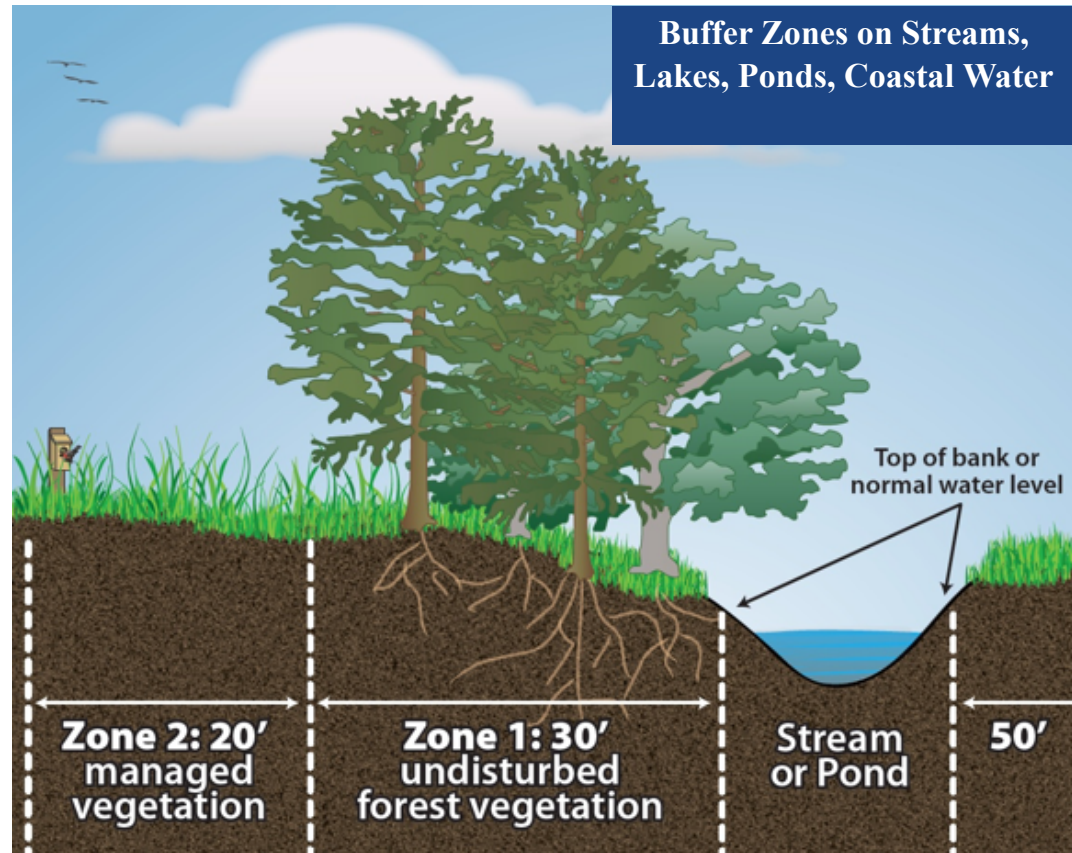


Purpose of Specific Buffer Rules

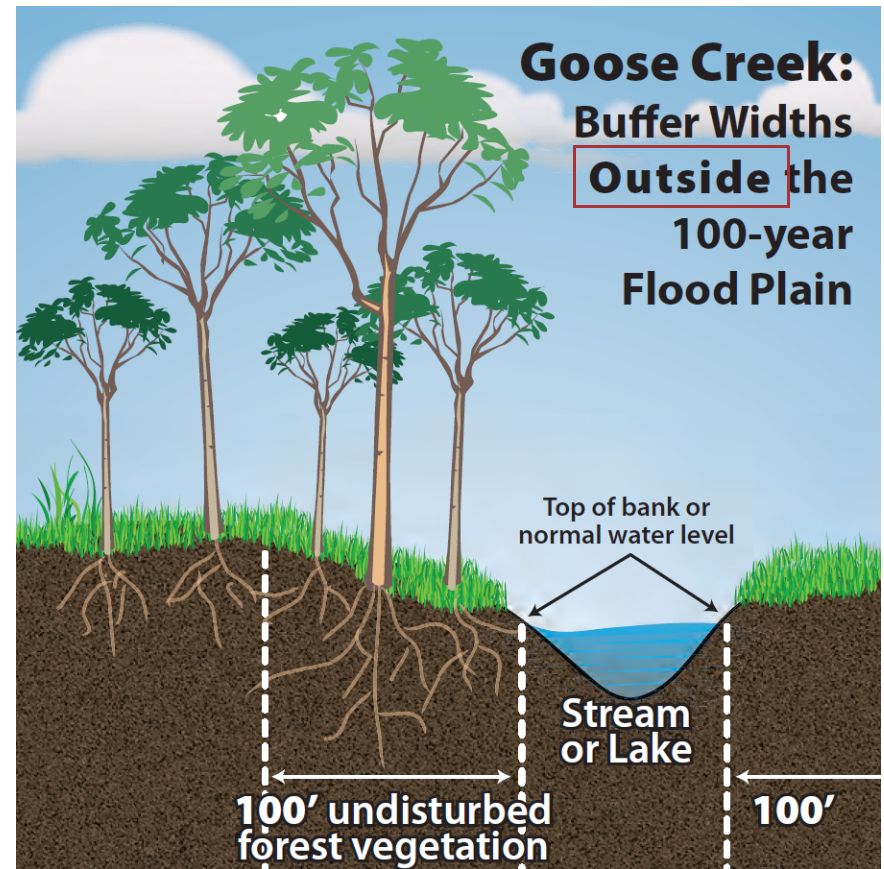
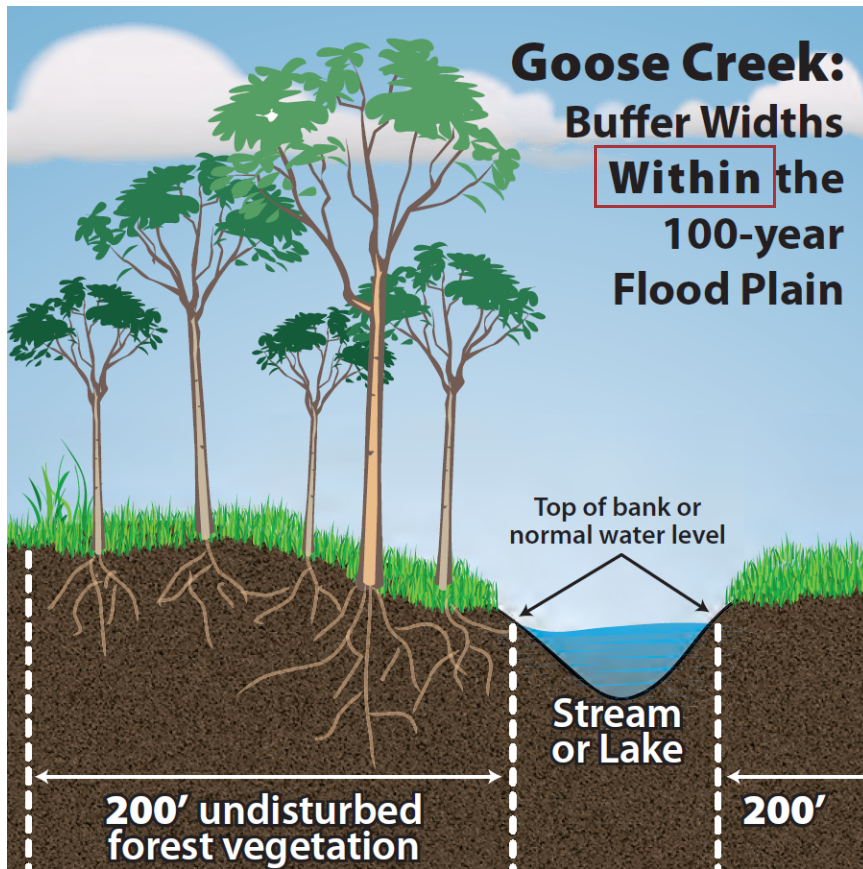
- Nutrient Removal Function to protect estuaries / downstream lakes
 - o Neuse
 - o Tar-Pamlico
 - o Catawba
- Protect Water Supply
 - o Randleman Lake (New Water Supply)
 - o Jordan Lake
- Sustain and recover federally endangered Carolina Heelsplitter
 - o Goose Creek

How is buffer measured?

Neuse
Tar-Pam
Catawba
Jordan
Randleman



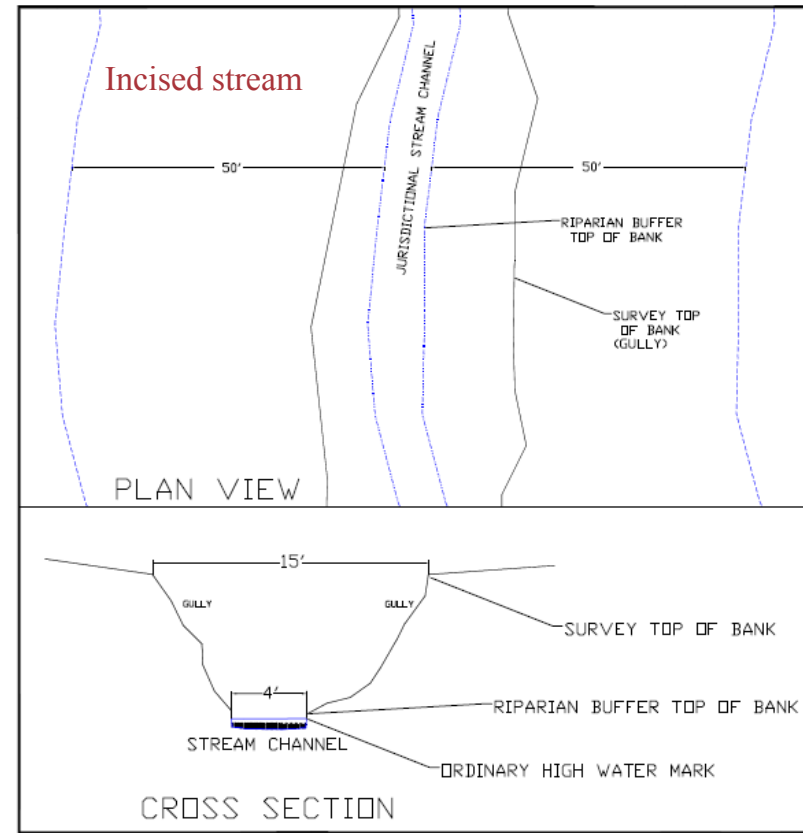
How is buffer measured?



How is buffer measured?

Common questions:

- Do you measure the buffer distance horizontally on a plan sheet or topographically with the “lay of the land”?
- Where is the “top of bank” to start the buffer distance measurement on an incised stream?
- I thought that the buffer started at the edge of the coastal wetlands?
- Where do you start measuring the buffer on the edge of a lake/pond? What about a beaver impoundment?



Where does the buffer apply?

- Features “approximately shown” on
 - *Latest* USGS Topographic 1:24,000 scale
 - OR-
 - Most Recent *Published* NRCS Soil Survey
-
- Randleman
 - *Also* applies if other site specific evidence indicates the presence of waters not shown on either of the two maps
 - Catawba
 - Only Main Stem Catawba River/Lakes

SOIL SURVEY

**Wake County
North Carolina**



Soil Survey 1991

UNITED STATES DEPARTMENT OF AGRICULTURE
Soil Conservation Service
In cooperation with
NORTH CAROLINA AGRICULTURAL EXPERIMENT STATION



Where does the buffer apply?

- Applies to:

- Perennial streams
- Intermittent streams
- Lakes and reservoirs
- Ponds attached to streams
- Estuaries
- Modified natural streams

- Does not apply to:

- Ditches & Manmade conveyances*; unless constructed for navigation or boat access
- Ephemeral streams
- Ponds that are not attached to streams
- Wetlands
- Agricultural ponds

*Unless in Randleman



What is allowed in the buffer?

Zone 1

“Vegetated area that is to be undisturbed (protected) except as provided for in the Rule”

Zone 2

“Vegetated area that is to be undisturbed (protected) except as provided for in the Rule”

Grading deemed allowed provided existing vegetation in Zone 1 not compromised stormwater runoff is managed in compliance with the rule, and disturbed areas are stabilized and revegetated



What about
“pruning”?

What is allowed in the buffer?

Existing and Ongoing Uses

An activity is considered to be an “existing use” per the buffer rules if it existed (and ongoing) prior to:

- o July 22, 1997 Neuse River Basin
- o April 1, 1999* Randleman Lake
- o January 1, 2000 Tar-Pamlico River Basin
- o June 30, 2001 Catawba River Basin
- o February 1, 2009 Goose Creek Watershed
- o August 11, 2009* Jordan Lake Watershed

Only the portion of the riparian buffer that contains the footprint of the existing use shall be exempt



What is allowed in the buffer?

Table of Uses

Exempt*	Allowable*	Allowable With Mitigation*
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?

OR

Deemed Allowable	Allowable Upon Authorization	Allowable With Mitigation Upon Authorization	Prohibited
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What is Allowed in the Buffer?

Exempt*	Allowable*	Allowable With Mitigation*
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Jordan – if the use is not listed, then it is prohibited

Deemed Allowable	Allowable Upon Authorization	Allowable With Mitigation Upon Authorization	Prohibited
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Neuse, Tar-Pam, Catawba,
Randleman, Goose Creek

2020 Buffer Rule Revisions

What happened when we weren't looking?

2020 Rule Updates

The Big Picture

- Main goals
 - Revise outdated requirements
 - Provide maximum consistency with other NC rules and/or Federal Regulations
 - 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
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2020 Rule Updates

What didn't change?

- Jordan Lake Riparian Buffer Rules
 - Unable to revise rules per legislation
 - Each Buffer Rule's original scope, purpose, and applicability
 - All exemptions and existing uses
 - What features are subject to the buffer rules
 - The width or definition of Zone 1 or Zone 2
 - Table of Uses to identify specific activities within the buffers
 - Local government delegation/designation authority
- 

2020 Rule Updates

What's New?

Relocation and subdivision of many Rules (*Cross Reference Table available on website*)

Previous Rule Citation	Current Citation	Previous Rule Citation	Current Citation
15A NCAC 02B .0233 Neuse Buffer Rules	15A NCAC 02B .0714 Neuse 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 .0241 Neuse Buffer Rules Delegation	15A NCAC 02B .0715 Neuse Buffer Rule Delegation Authority	15A NCAC 02B .0251 Randleman Lake Stormwater Rules	15A NCAC 02B .0721 Randleman Lake Stormwater Requirements
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 .0605 Goose Creek Buffer Rules: Buffer Widths	15A NCAC 02B .0605 Goose Creek Buffer Widths
15A NCAC 02B .0261 Tar Pam Buffer Rules Delegation	15A NCAC 02B .0735 Tar Pam Buffer Rule Delegation Authority	15A NCAC 02B .0606 Goose Creek Variance Activities	15A NCAC 02B .0606 Goose Creek Authorization Certificates
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 .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

2020 Rule Updates

What's New?

- Common Elements for Neuse, Tar-Pam, Catawba Relocated into Separate Rules
 - 15A NCAC 02B .0610 Definitions
 - 15A NCAC 02B .0611 Authorization Certificates
 - 15A NCAC 02B .0612 Forest Harvesting Requirements

2020 Rule Updates

What's New?

New Categories for better clarity but definitions and approval process have not changed significantly

Previous Category	Current Category
Exempt	Deemed Allowable
Allowable	Allowable upon Authorization
Allowable with Mitigation	Allowable with Mitigation upon Authorization
Prohibited	Prohibited

New category:

- o Allowable upon Exception

2020 Rule Updates

What's New?



- Allowable upon Exception

- For any activities that are not specifically listed within the Table of Uses
- 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

2020 Rule Updates

What's New?

- Table of Uses

- All footnotes were relocated into appropriate line items
- Significant changes to allowances for residential properties/structures
- Expanded allowances for stormwater control measures within buffer
- Significant update/revisions to Utility Line Uses

	Deemed Allowable	Allowable Upon Authorization	Allowable With Mitigation Upon Authorization	Prohibited
(i) (ii) (gg) Utility Lines – Streambank stabilization for the protection of publicly owned utility lines (not including new line installation): Less than 150 feet of streambank disturbance Greater than 150 feet of streambank disturbance	X	X		

2020 Rule Updates

What's New?

- Table of Uses
 - Fences: Modified and Simplified
 - Greenways, trails, sidewalks or linear pedestrian/bicycle transportation system expanded and combined
 - Residential Properties - Allows residential structures/expansions where no alternatives exist
 - Combined roads, driveways, railroads for consistency
 - Modified thresholds from linear foot to buffer impact acreages

Residential Properties: Where application of this Rule would preclude construction or expansion of a single-family residence and necessary infrastructure, the single-family residence may encroach in the buffer if all of the following conditions are met: (1) the residence is set back the maximum feasible distance from the top of the bank, rooted herbaceous vegetation, normal high-water level, or normal water level, whichever is applicable, on the existing lot; (2) the residence is designed to minimize encroachment into the riparian buffer; (3) the residence complies with Item (9) of this Rule; and (4) if the residence will be served by an on-site wastewater system, no part of the septic tank or drainfield may encroach into the riparian buffer:

2020 Rule Updates

What's New?

- Table of Uses - Utilities
 - Streambank stabilization for the protection of publicly owned utility lines
 - Increased allowable maintenance corridor from 10 feet to 30 feet wide
 - Sanitary Sewer Overflows
 - Vegetation maintenance activities
 - Replacement/Rehabilitation of existing sewer lines within, or adjacent to, an existing right of way
 - New Line Construction Activities

2020 Rule Updates

What's New?

- ~~Diffuse Flow~~ — **Stormwater Runoff Through Riparian Buffer**
 - Changed diffuse flow to dispersed flow as defined in 15A NCAC 02H .1002
 - Conveyances through the buffer from approved SCMs now deemed authorized
 - Added activities/uses to allowable upon authorization
 - Allow new conveyances when nutrient calculations show achievable rule loading goals
 - Allow for new conveyances with minimal flow rates 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 process for unlisted stormwater runoff control methods to be considered under Allowable with Exception



Questions?