



Coastal General Major Variance

Frequently Asked Questions

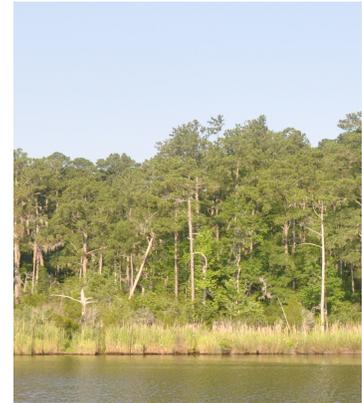


General Major Variance from the Neuse and Tar-Pamlico Riparian Buffer Protection Rules for residential structures on existing lots within the 20 coastal counties.

What are the buffer rules and why were they adopted?

The Neuse and Tar-Pamlico Rivers are considered impaired waterways due to excess nutrients, especially nitrogen and phosphorus. These can lead to algal blooms and fish kills. Scientific studies have shown that riparian areas, strips of land bordering a body of water, are highly effective at removing excess nutrients before they reach our streams, lakes and estuaries. Preserving these riparian areas is critical to protecting our water resources. The N.C. Environmental Management Commission (EMC) has passed rules to protect them.

The rules require a 50-foot riparian buffer divided into two zones. The 30 feet closest to the water (Zone 1) must remain undisturbed. The outer 20 feet (Zone 2) can be managed vegetation.



Are these new rules?

These rules are **not** new for the Neuse or Tar-Pamlico river basins. The Neuse River Basin Rules have been in effect since July 22, 1997. The Tar-Pamlico River Basin Rules have been in effect since Jan. 1, 2000.

What permitting options are available?

Both the Neuse and Tar-Pamlico rules have a *Table of Uses* that identifies particular activities as “exempt*,” “allowable,” “allowable with mitigation” or “prohibited.” Activities not listed in the table are prohibited.

- **Buffer Authorization** (also known as a “no practical alternatives” determination) - required for any “allowable” or “allowable with mitigation” use.
- **Minor Variance** - required for any “prohibited” use that impacts only Zone 2 of the buffer. Approvals may be granted by the Division of Water Quality (DWQ) or a delegated local government.
- **Major Variance** - required for any “prohibited” use that impacts Zone 1 or Zones 1 and 2 of the buffer. Approvals for major variances may only be granted by the EMC.
- **General Major Variance (GMV)** - required for any “prohibited” use that impacts Zone 1 or Zones 1 and 2 of the riparian buffer. This is only for residential structures on lots platted prior to August 2000 within the 20 coastal counties. Approvals for general major variances may be granted by DWQ.

*Note: “exempt” activities do not require any type of buffer permit from DWQ.

What requirements must be met to qualify for a variance?

Any variance request must show that there are practical difficulties or unique hardships that prevent compliance with the buffer rules. Currently, the applicant must show all of the following:

- Purchased the property prior to the effective date of the rule.
- Did not cause the hardship by knowingly or unknowingly violating the rule.
- Cannot secure any reasonable return from, or make reasonable use of their property if they comply with the rule.
- Hardship results from the application of the rule to the property rather than from other factors.
- Hardship is due to the physical nature of the applicant’s property.
- Hardship is unique to the applicant’s property.

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Frequently Asked Questions (continued)

How long is a variance valid?

Once a variance has been issued, it does not expire.

If a variance is issued, does it transfer if the property is sold?

Yes. Variances run with the land and are transferred from the initial property owner to any subsequent owners of the property. New owners are authorized only for the exact footprint and specific impacts approved by the variance.

Can changes be made to a project after a variance has been issued?

A variance only authorizes the specific impacts that were approved at the time the variance was issued.

Any changes in project design or location require a modification to the variance and must receive approval from DWQ or the EMC before they are implemented.

Who is responsible for complying with the variance once it is issued?

The property owner who received the variance is responsible for maintaining compliance with all conditions of the variance. If the property is sold, the responsibility transfers to the new property owner.

If a property without a variance has been purchased or inherited after the effective date of the rule, what variance options are available for the new owner?

If the property has been purchased, the new owner may not qualify for a variance as they may not meet all the hardship requirements (listed previously).

If the property has been inherited, the heirs can apply for a buffer authorization, minor variance, major variance or general major variance.

Is the state making new buffer rules for the Neuse and Tar-Pamlico river basins?

No. The state has been working on consolidating several existing riparian buffer protection rules into one set of rules. The purpose of the consolidation is to make the rules easier to use and to provide consistency among existing rules.

What is the timeline and process for the Consolidated Buffer Rules?

In winter 2010/2011, DWQ will request permission from the EMC to send the draft rules out to public notice and to solicit public comment. DWQ will conduct public hearings throughout the state in the summer of 2011 and anticipates the rules will become effective in early 2012.

DWQ is also working on incorporating new and different options in the Consolidated Buffer Rules to allow for more flexibility for lots platted prior to the buffer rules.

When the Coastal General Major Variance expires, what options will be available to property owners?

When the 2005 Coastal General Major Variance expires on April 11, 2011, it will not be renewed. Property owners can continue to apply for major variances through the EMC and minor variances through DWQ.

How long will applications for a Coastal General Major Variance be accepted?

Applications for coverage under the Coastal General Major Variance will be accepted until April 11, 2011. Approvals may be issued after this date as long as DWQ received a complete application by April 11, 2011.

For more information, please contact the N.C. Division of Water Quality:

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