Instructions for Buffer Authorization Application

The Buffer Authorization (BA 10-2013) form is applicable for applicants seeking approval for activities within North Carolina's protected riparian buffers when the activities do not impact any streams or wetlands. If your project requires that you apply for a U.S. Army Corps of Engineers (USACE) 404 or Section 10 permit or a state 401 Water Quality Certification or Isolated/non-404 permit, please use the PCN form (found here), as it addresses a combination of activities involving buffers, streams, wetlands, and other waters.

Prior to starting any work in an area that may impact protected buffers, the applicant is required to secure authorization from the Division of Water Resources (DWR), unless the work is exempt or prohibited (see below). DWR will review your application for completeness within 45 calendar days of receipt and notify you if additional information is needed to process your request. You may not begin work until your application is complete and you receive written notification of approval/ authorization. Once your application is complete, DWR will process your Buffer Authorization within 60 calendar days.

HOW DO I KNOW IF I NEED A BUFFER AUTHORIZATION?

Each buffer rule (see citations below) requires that the riparian buffer be undisturbed, regardless of property size or type of land use. The riparian buffer applies to intermittent, perennial and modified natural streams, rivers, lakes, ponds, reservoirs, and estuaries that are shown on the most recent published version of the NRCS Soil Survey or the most recent 1:24,000 scale topo maps. In the Randleman watershed, a feature does not have to be depicted on one of the two maps to be subject. Within each set of buffer rules[1], there is a Table of Uses for specific activities:

- **Exempt** uses are allowed in the riparian buffer without approval from DWR.
- **(Potentially) Allowable** or **Allowable with Mitigation** uses may occur in the buffer once a Buffer Authorization is issued from DWR. Some of these impacts may require mitigation.
- **Prohibited** uses are not allowed in the buffer unless a variance is granted from DWR or the N.C. Environmental Management Commission. Activities not listed in the Table of Uses are **prohibited**.[2]

[1] Rules:
Neuse - 15A NCAC 02B .0233 (8)(b)
Randleman - 15A NCAC 02B .0250 (11)(b)
Jordan - 15A NCAC 02B .0267 (11)(c)
Catawba - 15A NCAC 02B .0243 (8)(b)
Tar-Pamlico - 15A NCAC 02B .0259 (8)(b)
Goose Creek - 15A NCAC 02B .0607 (e)(2)

[2] Session Law 2012-200 allows for the construction of single family residences on existing lots (i.e. lots platted and recorded before August 1, 2000 that are 2 acres or less) located within the Neuse or Tar-Pamlico River Basins. This session law is available at http://www.ncleg.net/EnactedLegislation/SessionLaws/PDF/2011-2012/SL2012-200.pdf . (Also reference Session Law 2011-394, available at http://www.ncleg.net/Sessions/2011/Bills/House/PDF/H119v5.pdf .)

FEES

There is no application fee for Buffer Authorizations.

WHERE TO SEND YOUR COMPLETED BA 10-2013 FORM

Copies of your completed BA 10-2013 form with all required attachments must be sent to DWR.

For government (NCDOT, City/ Town) transportation projects:

Mailing Address (by US Postal Service)	Physical Address (by delivery service, UPS, FedEx, etc.)
NC DWR, Transportation Permitting Unit (TPU) 1650 Mail Service Center Raleigh, NC 27699-1650	NC DWR, Transportation Permitting Unit (TPU) 512 North Salisbury Street Raleigh, NC 27604

For all other projects:

Mailing Address (by US Postal Service)	Physical Address (by delivery service, UPS, FedEx, etc.)
NC DWR, 401 & Buffer Permitting Unit 1650 Mail Service Center Raleigh, NC 27699-1650	NC DWR, 401 & Buffer Permitting Unit 512 North Salisbury Street Raleigh, NC 27604

NUMBER OF COPIES REQUIRED

Provide three (3) complete and collated copies of the BA 10-2013 form and all required attachments. Instead of providing 3 copies of the full size plans, you may provide two copies of full size plans along with one copy of 11 X 17 inch size plans.

APPLICATION FORM

Below you will find detailed instructions on how to fill out each section of the BA 10-2013 form.

Section A. Applicant Information Instructions

1. Project Information - These fields will help us identify your project and direct it to the correct project manager for timely review.

1a. Name of project:
If your project has a formal name please use this. If your project does not have a formal name, please identify your project by the owner name and proposed activity (Jones Property Access Road, Smith Guest House, etc.) List in parentheses any other names that have been used to identify the project in the past.

1b-1d. Location information: (Self explanatory)

1e. Is the project located in any of NC's twenty coastal counties?
A list of the 20 Coastal Counties can be found at: http://portal.ncdenr.org/web/cm/cama-counties

1f. Is the project located within a NC Division of Coastal Management Area of Environmental Concern (AEC)?
To learn more about AECs and CAMA permits, visit the NC Division of Coastal Management's web site: http://dcm2.enr.state.nc.us/Permits/aecs.htm Contact information for the NC DCM representative for your project area can be found at: http://dcm2.enr.state.nc.us/contact_dcm.htm.

2. Owner Information – Although the agencies will communicate with the individual(s) listed as applicant on the BA 10-2013, the owner receives the original of all communications.

2a. Name on Recorded Deed:
A responsible individual must be identified for the proposed project, even if it is a corporate effort.

2b. Deed Book and Page Number:
This field cannot be left blank unless this project is a municipal or NCDOT project.

2c. Map Book and Page Number (*include a copy of the recorded map that indicates when the lot was created*):
This field cannot be left blank unless this project is a municipal or NCDOT project.

2d. Responsible Party:
You must identify an individual as the contact and responsible party for the proposed project when the land is owned by a corporation. This can be a responsible officer of the company, registered agent, partner or owner.

2e-2i. Mailing address information (Self explanatory)

3. Applicant Information -
3a. Applicant is:
Specify if the applicant is an agent or another party.

3b-3h. Address information (Self explanatory)

4. Agent/Consultant Information - If you list an agent or consultant, you must include an agent authorization letter with your BA 10-2013 form for it to be considered complete. A signed and dated copy of an Agent Authorization letter must be attached if the Agent has signatory authority for the owner/applicant. (See sample form on the web:
http://www.saw.usace.army.mil/Portals/59/docs/regulatory/regdocs/Permits/SAMPLE_AGENT_AUTHORIZATION_FORM.pdf)

4a-4g. Address information (Self explanatory)

Section B. Project Information and Prior Project History Instructions

1. Property Identification

1a. Property identification no. (Tax PIN or parcel ID):
List the identifying tax ID, parcel ID or PIN (whichever is the primary identifying information for real estate tax purposes in the county in which your property is located). This information can frequently be found online through your county tax records or on a real estate tax invoice for the property, or from the local County tax assessor's office or register of deeds. Some counties have interactive GIS maps that show the property identification numbers as well.

NC State Property Office Web link to find tax parcel ID for your county: http://www.ncspo.com/gis/county.htm
NC County GIS Data from NCSU: http://www.lib.ncsu.edu/gis/counties.html

1b. Site coordinates (in decimal degrees):
The site coordinates are necessary so the agencies can accurately locate and analyze impacts from your proposed project. For linear projects, such as roads or utility lines, attach a sheet that separately lists the coordinates for each crossing of a waterbody. For a single coordinate, clearly label the location in which this coordinate was taken on attached site maps.

Site coordinates can be obtained from maps, surveys, or from GPS devices. Coordinates should be written as latitude and longitude and expressed in decimal degrees. For assistance in finding the latitude/longitude information for you project, please try iTouchMap.com (http://itouchmap.com/latlong.html).

1c. Property size:
This information can be found on a property survey, plat, or from tax parcel records. List in acres (or fraction of an acre). If the project is a phased project, then list the acres by phase. For example if the permit is requested for Phase I of a two phase project, then the entry might read, "Phase 1 = 34.5 acres out of total project area of 74.5 acres".

2. Surface Waters

2a. Name of nearest body of water to proposed project:
The nearest named body of water can be found by looking on the 1:24,000 USGS Topographic map for the project. USGS maps may be found via the USGS Store at: http://store.usgs.gov . Click the "Map Locator & Downloader" link on the right side of the screen and follow instructions on getting your most recent version of the 1:24,000 scale topographic map. You may also consult other resources such as NC One Map http://data.nconemap.com/geoportal/dataexplorer/index.jsp.
If a creek or other waterbody does not have a known name, please identify it as an "Unnamed tributary to ____" and list the nearest named stream into which it flows.

2b. Water Quality Classification of nearest receiving water:
Surface Water Classifications are designations applied to surface water bodies, such as streams, rivers and lakes, which define the best uses to be protected within these waters (for example swimming, fishing, drinking water supply) and carry with them an associated set of water quality standards to protect those uses. Surface water classifications are one tool that state and federal agencies use to manage and protect all streams, rivers, lakes, and other surface waters in North Carolina. Visit this web page to learn more about water classifications in North Carolina and look-up tools for waters in each major river basin. http://portal.ncdenr.org/web/wq/ps/csu/classifications .

2c. River basin:
This must be one of NC's 17 designated major river basins, see: http://portal.ncdenr.org/c/document_library/get_file?uuid=c6e928f7-5849-4f65-be27-c7d325de604a&groupId=38364.

3. Project Description

3a. Describe the existing conditions on the site and the general land use in the vicinity of the project at the time of this application:
Describe the existing landcover (e.g. forested, maintained herbaceous cover, agriculture, pastureland, etc.) and developed areas (e.g. urban/suburban residential, commercial, industrial, etc.) of the subject site and vicinity.

3b. USGS maps may be found via the USGS Store at: http://store.usgs.gov . Click the Map Locator & Downloader link on the right side of the screen and follow instructions on getting your most recent version of the 1:24,000 scale topographic map. You may also consult other resources such as NC One Map: http://data.nconemap.com/geoportal/dataexplorer/index.jsp . The latitude and longitude of your site may also be found on these websites.

3c. Natural Resources Conservation Service (NRCS) Soil Surveys for North Carolina Counties may be found at http://soils.usda.gov/survey/online_surveys/north_carolina/ . Use the table under "Soil Survey Maps" at http://portal.ncdenr.org/web/wq/swp/ws/401/riparianbuffers/maps to determine the **most recent published** version. You may also contact your local NRCS office for a paper version of your County's Soil Survey. Contact information for local offices may be found by county at: http://offices.sc.egov.usda.gov/locator/app?service=page/CountyMap&state=NC&stateName=North%20Carolina&stateCode=37. The "Web Soil Survey" may not be used for the purpose of the riparian buffer rules.

3d. List the total estimated linear feet of all existing streams (intermittent and perennial) within the project area:
Self explanatory

3e. Describe the purpose of the proposed project:
This can be a simple explanation, but it is critically important because the purpose dictates how alternatives to your proposed work are considered. Provide a clear, concise description of the primary goals of the proposed project (usually no more than one or two sentences); for example: build a driveway to access a new single family residence.

3f. Describe the overall project in detail, including the type of equipment to be used:
Fully describe the project and what is planned to occur. Explain any site specific constraints that may exist on the property that will affect how your project is built. Also list any special or unique equipment here that may be used on the project.

4. Jurisdictional Determinations

4a. Have jurisdictional wetland or stream determinations by the USACE or State been requested or obtained for this project (including all prior phases) in the past?
Learn more about jurisdictional determinations by visiting the USACE website at: http://www.saw.usace.army.mil/Missions/RegulatoryPermitProgram/Jurisdiction.aspx. Learn more about state jurisdictional determinations for the purposes of the riparian buffer rules by visiting the DWR website at: http://portal.ncdenr.org/web/wq/swp/ws/401/waterresources/streamdeterminations.

4b.If yes, who delineated the jurisdictional areas?
Provide the name and organization of the person or persons who delineated the jurisdictional areas.

4c. If yes, list the dates of the USACE jurisdictional determinations or State determinations and attach documentation.
Provide the dates and attach copies of the JD or DWR letter.

5. Project History

5a. Have permits or certifications been requested or obtained for this project (including all prior phases) in the past?
This includes 404 permits, 401 Certifications, Riparian Buffer Authorizations, Isolated Wetland (non-404 General) Permits, and State and local stormwater management plans.

5b. If yes, explain.
Include the USACE Action ID Number, DWQ/DWR Project Number, application date, and dates permits and certifications were issued or withdrawn. Provide copies of previously issued permits, certifications or other useful information. Describe previously approved wetland, stream and buffer impacts, along with associated mitigation (where applicable). If this is an NCDOT project, list and describe permits issued for prior segments of the same T.I.P. project, along with construction schedules.

6. Future Project Plans

6a. Is this a phased project?
Some construction and development projects are divided into smaller, manageable parts for logistical or economic reasons. If this application is for a phased project, the owner must get approval in the context of how the project will be phased.

6b. If yes, explain.
Clearly describe each phased project and provide a proposed timeframe for completion of each phase. Provide a site plan that clearly depicts the boundaries of each proposed phase. Include information if the project has undergone review through a master planning process for a municipality.

Section C. Proposed Impacts Inventory Instructions

1. Buffer Impacts

1a. Project is in which protected State protected river basin?
List the name of the corresponding river basin or protected watershed: Neuse, Tar-Pamlico, Catawba, Randleman, Jordan or Goose Creek.

1b. Individually list all buffer impacts in the Table.
Attach additional sheets if necessary.

Buffer Impacts - Permanent or Temporary:
The impact numbers should be labeled and correspond with those on your impact maps. Check the corresponding box (P) permanent or (T) temporary for each buffer impact.

Reason for impact:
The reason for the impact should correspond with the categories in the Table of Uses. (Examples may include house, driveway, walkway, access road, etc.)

Type of impact:
Impact types include exempt, allowable, or allowable with mitigation, as shown in the Table of Uses

Stream name:
Enter the name of the stream adjacent to the buffer (i.e., the stream labeled on the USGS topographic map). If the stream has no name, then call it an unnamed tributary (UT) to the nearest named stream. If there are multiple unnamed tributaries to the same named stream on the site, then list them numerically (such as UT-1 to Swift Creek, UT-2 to Swift Creek, UT-1 to Davis Creek, etc.).

Buffer mitigation required?
Please refer to the Table of Uses to determine if riparian buffer mitigation is required. If you are unsure if mitigation is required, please call the NC DWR 401/Buffer Coordinator (919) 807-6364.

Zone 1 impact (square feet):
Zone 1 shall begin at the most landward limit of the top of bank or the rooted herbaceous vegetation and extend landward a distance of 30 feet on all sides of the surface water, measured horizontally on a line perpendicular to the surface water.

In the 20 Coastal Counties, Zone 1 shall begin at the most landward limit of the following and extend landward a distance of 30 feet: normal high water level, normal water level or the landward limit of the coastal wetlands and defined by the Division of Coastal Management (DCM).

In the Goose Creek Watershed, Zone 1 extends landward a distance of 200 feet within the 100-year floodplain and 100 feet outside the 100-year floodplain. The 100-year floodplain in the one percent Annual Chance Floodplain as delineated by the NC Floodplain Mapping Program in the state Division of Emergency Management (www.ncfloodmaps.com).

Zone 2 impact (square feet):
Zone 2 shall begin at the outer edge of Zone 1 and extend landward 20 feet as measured horizontally on a line perpendicular to the surface water. The combined width of Zones 1 and 2 shall be 50 feet on all sides of the surface water. Ensure that the buffer impact is broken down by zones and is also enumerated by zone on your impact maps.

In the Goose Creek Watershed, there is no Zone 2.

Total buffer impacts:
Add all of the proposed impacts to calculate the total.

1c. Comments:
Explain any items that may need clarification or that do not fit perfectly into the table.

Section D. Impact Justification and Mitigation Instructions

Pursuant to state rules, you must exhaust all reasonable measures to avoid impacts before you propose any impacts to protected riparian buffers. In this section, you must provide a justification that explains how you minimized all proposed impacts. The justification must detail the design and proposed construction measures you took to avoid or minimize impacts. If the impacts are required by a local government or other agency, the claim must be supported with appropriate written documentation from the local government or other agency. Include relevant site constraints factors that shaped your design or construction choice, such as topography, building ordinances, and accessibility.

1. Avoidance and Minimization

1a. Specifically describe measures taken to avoid or minimize the proposed impacts in designing the project:
Minimizing and avoiding impacts should be a critical part of the design process. The following is a checklist of avoidance and minimization questions that DWR Staff often look for in applications. If the answer is "yes" to any of the below questions, then you should provide a specific justification addressing these issues as to why the impacts are necessary.

- Can property access routes be moved or reduced to avoid impacts?
- Can a building, parking lot, etc. be realigned to reduce or avoid impacts?
- Can the site layout be reconfigured to reduce or avoid impacts?
- Can headwalls or steeper side slopes be used safely to reduce or avoid impacts?
- Can a retaining wall be used safely to reduce or avoid impacts?
- Can lots be reshaped or can shared driveways be used to reduce or avoid impacts?

1b. Specifically describe measures taken to avoid or minimize the proposed impacts through construction techniques:
List all techniques and practices that you plan to use to avoid and minimize impacts from the construction of the project (e.g., erosion control measures, hand clearing versus use of heavy equipment, site access from high ground, pre-fabrication of materials in high ground to minimize time in sensitive environments, etc.)

2. Buffer Mitigation

2a. Will the project result in an impact within a protected riparian buffer that requires buffer mitigation?
Check "yes" or "no". To determine whether or not your project requires mitigation, check the appropriate section in the Table of Uses for the subject river basin or watershed. Items listed as "(Potentially) Allowable with Mitigation" require mitigation.

2b. Identify the square feet of impact to each zone that requires mitigation and calculate the amount of mitigation required.

Zones of the Buffer:
See the description in Section C (1b) above.

Reason for impact:
The reason should correspond with the use in the Table of Uses.

Total impact (square feet):

This number should correspond with the square footage on your impact map that requires mitigation. Note this number may be less than the total proposed impacts if not all of your proposed impacts require mitigation.

Required mitigation (square feet):
Multiply the total impact for each Zone with the Multiplier number in the Multiplier column and enter the result here.

Total buffer mitigation required:
Add the required mitigation for Zones 1 and 2 in column 6d to determine the total mitigation required.

2c. If buffer mitigation is required, is payment to a mitigation bank or NC EEP proposed?
Answer yes if you plan to purchase riparian buffer mitigation credits from a private mitigation bank or the NC Ecosystem Enhancement Program (NC EEP). A list of available mitigation banks can be found online at: http://portal.ncdenr.org/web/wq/nutrientbufferbanks. Session Law 2009-337 stipulates payment of a fee into the NC EEP is only available to an applicant who demonstrates that appropriate mitigation is not available from a compensatory mitigation bank. The full text of this session law is available at http://www.ncga.state.nc.us/Sessions/2009/Bills/Senate/PDF/S755v7.pdf .

2d. If yes, attach the acceptance letter from the mitigation bank or NC EEP.
If mitigation is proposed through a private mitigation bank or NC EEP, an acceptance letter must be included in the application package specifying that they have the appropriate number of credits that your project requires. DWR recommends that you request the maximum possible mitigation amount that may be required so that you will not have to get further approval on short notice.

2e. If no, then discuss what type of mitigation is proposed.
If on-site riparian buffer restoration is proposed, a detailed restoration plan must be included in the application package following the most recent DWR guidelines: http://portal.ncdenr.org/web/wq/swp/ws/401/riparianbuffers. Attach all appropriate information as identified within 15A NCAC 02B .0242, .0244, .0260, .0244, .0252, .0609, or .0268.

2f.Comments:
Explain any items that may need clarification or that do not fit perfectly into this Buffer Mitigation section.

Section E. Diffuse Flow Plan

You must include a diffuse flow plan that shows that all stormwater from the project is converted to diffuse flow outside of the protected riparian buffer through the correct design and implementation of a level spreader. If the slopes are too steep or if the flows are too large for a level spreader, another type of BMP must be provided. An appropriately designed BMP removes a minimum of 30% of total nitrogen and total phosphorus.

Please see Chapter 8 of the NC Stormwater BMP Manual for detailed information on how to meet diffuse flow requirements. If level spreaders are being used, then one completed Level Spreader Supplement Form with all required items must be submitted for each proposed level spreader. If another BMP is being used, make sure to include the appropriate BMP Supplement Form with all required items.

Section F. Supplementary Information

1. **Environmental Documentation**

1a. Does the project involve an expenditure of public (federal/state/local) funds or the use of public (federal/state) land?

If the "yes" box is checked, an environmental document (SEPA) may be required.

1b. If you answered "yes" to the above, does the project require preparation of an environmental document pursuant to the requirements of the National or State (North Carolina) Environmental Policy Act (NEPA/SEPA)?
The environmental documents that may be required are an Environmental Assessment (EA) or an Environmental Impact Statement (EIS).

1c. If you answered "yes" to the above, has the document been finalized by the State Clearing House? (If so, attach a copy of the NEPA or SEPA final approval letter.)
If this document is required, your application will not be considered complete without the final approval letter from the State Clearing House. Pursuant to 15A NCAC 01C .0107, no DENR agency shall undertake any action which might limit the choice among alternatives or otherwise prejudice the ultimate decision on the issue.

2. Violations

2a. Is the site in violation of DWR Wetland Rules (15A NCAC 2H .0500), Isolated Wetland Rules (15A NCAC 2H .1300), DWQ Surface Water or Wetland Standards, or Riparian Buffer Rules (15A NCAC 2B .0200)?
A Notice of Violation does not have to be issued for a site to be in violation of the aforementioned rules and/or standards. If your site has unauthorized fill in wetlands, streams, or riparian buffers then this box should be checked. If a Notice of Violation is issued for your site, then a copy of the Notice of Violation must be included in your application package or your application package will be considered incomplete.

2b. Is this an after-the-fact permit application?
Check "yes" if the impacts you are applying for have already been implemented.

2c. Provide an explanation of the violation(s):
Describe the nature of the violation and any resolutions that have been discussed to get the site back into compliance.

Applicant/Agent's Signature and Date
The applicant should print their name in the first block, then sign and date. The signature cannot be an electronic signature.

If an agent is signing for the owner, an agent authorization letter must be attached. A sample authorization letter is available on the USACE web site.
(http://www.saw.usace.army.mil/Portals/59/docs/regulatory/regdocs/Permits/SAMPLE_AGENT_AUTHORIZATION_FORM.pdf)