

FISCAL NOTE

Rule Citation Number: 15A NCAC 2B .0312 White Oak River Basin

General Rule Topic Matter: Reclassification of Section of Southwest Creek to Class SC

DENR Division: Division of Water Quality

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Screening Analysis: This rule does NOT

- require a federal certification statement under NCGS 150B-21(f1)
- meet the criterion of Federal Exemption found in NCGS 150B-21.4(b1)
- meet the criteria listed in NCGS 150B-21 relating to Temporary Rules
- meet the criteria for a Technical Correction laid out in NCGS 150B-21.5
- meet any of the criteria cited in the Help file list of a series of situations which may render a rule obsolete

(Service/Financial Program-Where Proposed Rule's Impact on State Funds under \$5 Million = N/A)

INTRODUCTION (Purpose, Benefits)

All surface waters in North Carolina are assigned a primary classification by the Division of Water Quality with the intent of protecting their designated best use. Numeric and narrative Water Quality Standards are associated with each classification. The most common and basic classification for freshwater and saltwater is Class C and Class SC, respectively, which protects for secondary recreation, fishing, wildlife, fish and aquatic life propagation and survival, and Class C also protects for agriculture. Secondary recreation includes wading, boating, and other uses involving human body contact with water where such activities take place in an infrequent, unorganized, or incidental manner. Other primary classifications are assigned to protect waters for such uses as shellfishing (Class SA), drinking water supply (WS-I through WS-V), and primary recreation (Class SB and Class B). Primary recreational activities include activities such as swimming, skin diving, water skiing, and similar uses involving human body contact with water where such activities take place in an organized manner or on a frequent basis. Supplemental classifications are sometimes added to ensure additional protections, such as for Nutrient Sensitive Waters (NSW) or High Quality Waters (HQW).

The Wilmington Regional Office DWQ staff submitted a request for reclassification of a segment of Southwest Creek (Onslow County, White Oak River Basin) from Class C to Class SC. This reclassification concerns the portion of the Southwest Creek main stem from approximately 0.5 mile upstream of Mill Run to New River. Approximately 2.0 miles of the creek are proposed to be reclassified, and the drainage area of the waters proposed to be reclassified measures approximately 2,351 acres.

The purpose of this rule change is to reflect the saltwater nature of these waters. The current and proposed uses for these waters are secondary recreation (such as fishing, wading, and boating), wildlife, and aquatic life including propagation and survival albeit Class C also protects for agricultural use. Water quality studies conducted in July 2001 show that these waters meet the criteria for Class SC.

Federally owned (Camp LeJeune) and municipally owned (Onslow County) lands exist within the area adjacent to the proposed waters. Marine Corps base related activities occur on lands adjacent to the proposed waters, and this land area contains very little development except for a few roads; there are no NPDES dischargers along the creek in this area. There are no planned discharges into these proposed waters.

If reclassified, the ambient water quality standards for Class SC waters will apply. Compared with the ambient standards for Class C waters, the Class SC standards are less restrictive, equal to, or more restrictive depending on which parameters are compared. Thus, the specific wastewater components of any new NPDES facility that would be discharged to these waters would determine whether the discharge would be affected by this reclassification. However, as mentioned above, there are no current or planned dischargers in the waters proposed to be reclassified. Development activities will not be affected.

The state's effective date of the reclassification is expected to be July 1, 2011.

PERSONS IMPACTED BY THE PROPOSED RULE AND THEIR RESULTING EXPENDITURES

(1) Regulated Parties

(a) Wastewater Dischargers

There are no existing or planned dischargers that are located in the proposed waters.

Cost/savings = \$0.

(2) Implementing Agencies

(a) Division of Water Quality (DWQ)

The NC Division of Water Quality (DWQ) Central office and regional staff will oversee the processing of the proposed rule as well as the implementation and enforcement of the requirements of the proposed rule. DWQ staff will handle the administrative procedures and provide educational and technical assistance and rule/policy evaluations. The Division has staff who issue permits as well as conduct inspections and take enforcement actions. DWQ monitors and keep records of compliance associated with their inspections and enforcement activities which are based on discharge limits, permits, and other regulations invoked by the reclassification.

Any rule/regulatory development, monitoring, record keeping, permitting, inspections, enforcement, or other activities required as a result of the reclassification and for which DWQ is responsible will be undertaken by existing DWQ staff, and thus, any such costs would be opportunity costs. No additional staff or funds will be required as a result of this rule, but tasks will be integrated into existing job descriptions and incorporated into work loads of existing staff.

Cost/savings=\$0

(3) Public Beneficiaries

(a) Humans

Citizens living in proximity to the proposed waters may benefit from this reclassification. Please remember that the Class SC standards are designed to protect the uses (secondary recreation,

fishing, wildlife, fish and aquatic life propagation and survival) of all saltwaters, whereas the currently applicable Class C standards are designed to protect the same uses plus agriculture of all freshwaters. Thus, the health of the saltwater ecosystem in these waters, and in turn, people who enjoy the uses affiliated with this saltwater ecosystem (most notably fishing) will benefit from this reclassification. The benefit to humans from this reclassification is not measurable; it would not be possible to associate a savings with the above-mentioned benefits.

Value = Not Measurable

(b) Environment/Ecosystem

The application of SC ambient water quality standards to these waters may benefit humans as well as ecosystem health and environmental assets (as mentioned in the above paragraph). This reclassification will provide protection of these waters' uses (via Class SC ambient water quality standards) that is more appropriate for and in recognition of these uses than the current reclassification. More specifically, the habitat for the saltwater aquatic life (fish, wildlife, etc.) may increase and improve, and in turn, propagation and survival of this aquatic life may increase and improve, than if the waters were not reclassified. DWQ currently does not have adequate data and models to quantify the potential savings associated with the enhancement in aquatic life habitat that may be realized as a result of this rule.

Value = Not Measurable

THRESHOLD DECISION AFTER PRELIMINARY RULE EVALUTION

The analysis of the proposed rule DOES NOT show an estimated annual economic impact of \$3 million or more. The analytical support for the threshold decision is that it was determined that costs will not exceed \$3,000,000. It is DENR's judgment that this proposed rule change has no state or local impact and is neither substantial nor significant in nature.