

Agenda Item: 15-03 **Request to Proceed to Public Hearing with 15A NCAC 02B .0295 (Consolidated Buffer Mitigation Rule) and Approved Fiscal Note Addendum in accordance with NCGS 150B-19.1.**

Explanation:

Temporary Rule 15A NCAC 02B .0295 was approved by the Rules Review Commission (RRC) on October 16, 2014 and became effective on October 24, 2014. The temporary rule will expire on August 14, 2015, unless the permanent rule adopted by the EMC to replace the temporary rule has been submitted to the Rules Review Commission by that date.

During RRC review of Temporary Rule 02B .0295, substantial changes to the text were requested by the RRC. Due to legislative mandates, many of the technical change requests were allowed to be delayed until permanent rule making. The proposed permanent rule incorporates text changes as suggested by RRC review, as well as text changes that provide clarification in areas noted by staff. In addition, the rule has been reorganized to provide further clarity.

To facilitate review the Division is providing four versions of the draft permanent rule:

1. The adopted temporary rule with all text changes identified using strikethroughs and underlines.
2. Version 1 reorganized by Division staff. This version identifies text changes to facilitate the reorganization but does not use strikethroughs or underlines to identify reordering/renumbering or relocations of text.
3. The adopted temporary rule with all text and reorganizational changes identified as required by OAH for adoption and public notice.
4. A clean version of the draft permanent rule.

In accordance with G.S. 150B-21.4 and with E.O. 70 from October 21, 2010 as amended by E.O. 48 from April 9, 2014, OSBM has reviewed and on November 4, 2014 approved a DENR Addendum to the original Buffer Mitigation Fiscal Note, October 12, 2012.

The Division is requesting a waiver to the 30-day rule in order to allow adoption of these permanent rule changes before the temporary rule expires.

Recommendation:

The Director recommends that the Commission approve of a waiver to the 30-day rule and recommends that the Commission approve the proposed rule to proceed to Public Notice.