



# Protecting TROUT WATERS

## of North Carolina

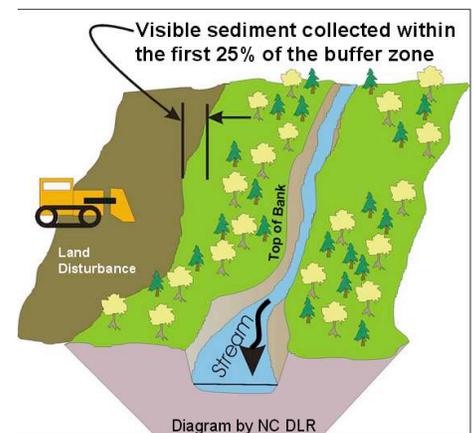
### Trout Waters (Tr) Classification

Trout waters are defined in the Environmental Management Commission Rule (15A NCAC 2B .0202) as “waters which have conditions which shall sustain and allow for trout propagation and survival of stocked trout on a year-round basis”. All named and unnamed tributaries to trout waters usually carry the trout waters classification. This classification does not and is not intended to provide public access to streams for fishing on private and public lands and does not regulate, in any way, fishing activities (seasons, size limits, creel limits, and bait and lure restrictions) handled by the NC Wildlife Resources Commission.

### Trout Buffer Law

The Sedimentation Pollution Control Act of 1973 requires buffer zones along trout waters. G.S. 113A-57(1) of this Act says:

“Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, that the Sedimentation Control Commission may approve plans which include land-disturbing activity along trout waters when the duration of said disturbance is temporary and the extent of said disturbance would be minimal.”



### Why a Trout Buffer?

By law, buffers are required on trout waters regardless of the size of land disturbance. Trees, left undisturbed, provide protection for waters that support trout populations. Buffers have many benefits, including:

- Capturing pollutants in runoff to keep the water clean.
- Capturing sediment to keep mud out of the water.
- Providing shade to keep waters cool.
- Providing leaves and sticks for aquatic insects, which serve as a food source for fish and other aquatic life.
- Providing logs and branches that serve as habitat and feeding areas for trout and aquatic insects.
- Keeping stream banks stable.
- Preventing erosion.

### Trout Buffer Requirements

Division of Land Resources (“DLR”) Rule 15A NCAC 04B .0125 specifies the following requirements for buffer zones for trout waters that must be met:

- The (minimum) 25-foot buffer must be measured horizontally from the top of the bank.
- A land-disturbing activity in the buffer zone adjacent to trout water can be permitted if the duration of the disturbance is temporary and the extent of the disturbance is minimal. Permission must be received from DLR (contact on back).
- To be considered minimal, a land-disturbing activity must meet two conditions. (1) The land-disturbance must be limited to a maximum of ten percent of the total length of the buffer zone on your property. (2) There must not be more than 100 linear feet of disturbance in each 1000 linear feet of buffer zone. For example, if there is 750 linear feet of buffer zone on your property, up to 75 linear feet of that buffer can be disturbed. If there is 1500 linear feet of buffer zone on your property, you are still limited to 100 linear feet of disturbance in any 1000 linear foot section along the stream. Please check with the appropriate Regional Office (contact information on back) to verify that the proposed activity is minimal.
- If the disturbance will exceed 10 percent or 100 linear feet in every 1000 linear feet, approval for the disturbance must be obtained from the Director of the DLR. Please submit your trout buffer variance request through the DLR Central Office. (Contact information on back).
- A land-disturbing activity within a buffer zone adjacent to trout water that will cause adverse stream temperature fluctuations, as set forth in 15A NCAC 2B .0211, is prohibited.

**One should check with local governments to ensure the land-disturbing activity in the buffer zone is in compliance with all local requirements.**

## **Frequently Asked Questions About Trout Buffers**

**Q: Does the Trout water (Tr) classification give the public permission to access private property for fishing or boating?**

A: No. Property rights do not change when a stream is classified as trout. This trout classification only protects water quality for trout to live and survive, and does not provide any access for any reason.

**Q: What is a land-disturbing activity?**

A: "A land-disturbing activity means any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation." (G.S. 113A-52(6))

**Q: If my land has a trout stream on it, can I continue to mow the grass up to the stream bank, even though it is within the trout buffer?**

A: In most cases, Yes. For an activity to be considered land-disturbance, it must have the potential to increase soil erosion and sedimentation. If mowing does not damage the ability of the ground cover to prevent soil erosion, then it is not a land-disturbing activity. Weed-eating or bush-hogging may result in "scalping" that would result in soil erosion. Minimal land disturbance may take place as described above in the "Trout Buffer Requirements" section.

**Q: Can I trim the vegetation within the trout buffer if it is adjacent to an existing use (house, road, garage)?**

A: In most cases, Yes. Trimming of limbs or other vegetation is generally not a land-disturbing activity and therefore is allowed in the trout buffer. However, removing shade that results in adverse stream temperature fluctuations is prohibited. Minimal land disturbance may take place as described above in the "Trout Buffer Requirements" section.

**Q: Can I cut down existing brush or trees within the trout buffer not associated with any existing structure?**

A: Clearing of brush or trees must be limited to the amount that is considered minimal. Minimal land disturbance may take place as described above in the "Trout Buffer Requirements" section. Ground cover must be maintained to prevent soil erosion.

**Q: Can I harvest the timber next to a trout stream on my property?**

A: Yes, but forestry activities must adhere to the statewide Forest Practices Guidelines Related to Water Quality noted in Answer #2 of the question below.

**Q: Are there any land disturbing activities that are exempt from the trout buffer requirements?**

A: Yes. The Sedimentation Pollution Control Act, which protects trout buffer zones, does not apply to the following types of land-disturbing activity (G.S. 113A-52.01):

1. An activity, including breeding and grazing of livestock, undertaken on agricultural land for the production of plants and animals useful to man, including but not limited to: forage and sod crops, grains and feed crops, tobacco, cotton, and peanuts; dairy animals and dairy products; poultry and poultry products; livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats; bees and apiary products; fur producing products.
2. An activity undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practices Guidelines Related to Water Quality, defined in 15A NCAC 11 .0100-.0209, as adopted by the North Carolina Department of Environment and Natural Resources. For more details and guidance please visit the NC Division of Forest Resources website at [www.dfr.nc.gov/water\\_quality/water\\_quality.htm](http://www.dfr.nc.gov/water_quality/water_quality.htm) or call your local County Ranger.
3. An activity for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the North Carolina General Statutes.
4. An activity essential to protect human life during an emergency.

**Q: If a tree falls into the trout buffer on my property, can I remove it?**

A: Yes, with minimal disturbance to the trout buffer.

**Q: Can I make repairs to my septic system, paint my house and do other maintenance activities to an existing structure within the trout buffer?**

A: Yes. You can still maintain your house, deck or any other existing structures. In the case of repairs to a septic system, approval by the local health department is required.

**Q: Can I make repairs to roads, driveways or culverts if it is within the trout buffer?**

A: Yes, provided that any land-disturbance is temporary and minimal, and does not result in stream sedimentation.

**Q: Can I build a new garage or shed in the trout buffer zone?**

A: Yes, with a variance approval if necessary. Any land-disturbing activity that is not minimal must obtain a variance from the Central Office of DLR.

**Q: If there is already a 30 foot vegetated buffer requirement in place, does the undisturbed trout buffer add another 25 feet to the existing buffer requirement?**

A: No, the widths do not compound. The most restrictive buffer requirement takes precedent, in this example, 30 feet. However, note that a vegetated buffer requirement is not always the same as the undisturbed trout buffer requirement.

**Q: Is it possible to culvert over the creek that runs through my property?**

A: Any work done within a stream, regardless of a trout buffer, first requires approval from DWQ and the US Army Corps of Engineers.

### **For More Information about Trout Buffers**

*Citizens and state agencies working together to protect North Carolina trout waters*

Division of Land Resources (DLR)  
(919) 733-3833  
<http://www.dlr.enr.state.nc.us>

Division of Water Quality (DWQ)  
(919) 807-6300  
<http://h2o.enr.state.nc.us>

Regional Offices  
Asheville: (828) 296-4500  
Winston-Salem: (336) 771-5000  
Mooresville: (704) 663-1699