

Regulatory Impact Analysis

Rule Citation Number: 15A NCAC 02E .0301

Rule Topic: Application; Processing Fees

DEQ Division: Division of Water Resources (DWR)

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Impact Summary: State government: No
Local government: No
Private entities: No
Agricultural entities: No
Substantial Impact: No

Necessity: N.C. Gen. Stat. §150B-21.3A(c)(c1) requires review of existing rules every 10 years, conduct an analysis of the rule and make a determination as to whether the rule is necessary with substantive public interest, necessary without substantive public interest, or unnecessary. The proposed rule change satisfies the requirement for 15A NCAC 02E .0301.

1. Summary

DWR reviewed 15A NCAC 02E .0301 Application; Processing Fees rule in accordance to G.S. §150B-21.3A and proposes to re-adopt the rule.

DWR identified necessary changes which include:

- Updating agency names and addresses;
- Removing language already codified in statute §143-215.22H; and
- Removing incorrect reporting requirements already codified in statute §143-215.22H.

The proposed changes include the removal of Paragraphs (e) and (f) and Subparagraph (b)(2). These provisions are contained in N.C. Gen. Stat. §143-215.22H; as such, their proposed removal will have no impact to the overall purpose of the rule.

2. Background

Water Withdrawal and Transfer Registration (WWATR)

WWATR collects annual self-supplied water use data from 85 counties outside of the Central Coastal Plain Capacity Use Area. North Carolina §143-215.22H requires any person who withdraws 100,000 gallons per day or more of water from the surface or groundwaters of the State or who transfers 100,000 gallons per day or more of water from one river basin to another shall register the withdrawal or transfer. Any person who withdraws or transfers 1,000,000

gallons per day of water for activities directly related or incidental to the production of crops, fruits, vegetables, ornamental and flowering plants, dairy products, livestock, poultry, and other agricultural products, or to the creation or maintenance of waterfowl impoundments are also required to report. WWATR has over 1,300 active facilities throughout the state reporting information such as monthly average withdrawal, maximum daily amount and location of withdrawal.

Rules Review and Readoption Process

G.S. §150B-21.3A requires the Department to evaluate each of its existing rules and make an initial determination as to whether the rules are:

1. Necessary with substantive public interest – the agency has received public comment on the rule within the past two years or the rule affects the property interest of the regulated public, and the agency knows or suspects that any person may object to the rule.
2. Necessary without substantive public interest – the agency determines that the rule is needed, and the rule has not had public comment in the last two years. This category includes rules that identify information that is readily available to the public, such as an address or telephone number.
3. Unnecessary – the agency determines that the rule is obsolete, redundant or otherwise not needed.

The Department must then determine which rules are still necessary and propose to re-adopt, with or without modifications, or to repeal each rule as appropriate. The Division categorized all the subject rules as “Necessary with substantive public interest.”

A staff attorney to the NC Rules Review Commission performed a pre-review of the rules, and the Division has edited the rules in accordance with the pre-review comments where applicable.

3. Economic Impact Analysis

The following table briefly describes the proposed rule change and summarize the anticipated impact.

3.1: Subchapter 02E – Water Use Registration and Allocation

Section .0300 – Registration of Water Withdrawals and Transfers

Rule	Proposed Change
15A NCAC 02E .0301 Application Processing Fees	Removed language deemed unnecessary. Updated agency name. Removed incorrect information.
15A NCAC 02E .0301 Application Processing Fees	Removed subsection (b)(2) already codified in GS 143.215-22H
15A NCAC 02E .0301 Application Processing Fees	Removed sections (e) and (f) already codified in GS 143.215-22H

3.2: Costs and Benefits Analysis

State Government, Local Government, Regulated Community, and the Environment

Changes made to subsection .0301 Application; Processing Fees are mainly for clarification and removal of information already defined under N.C. Gen. Stat. §143-215.22H. None of the changes suggested will change existing registrant's procedures or burden future registrants with new requirements.

4. Total Economic Impact

The changes proposed will have no financial impact on already registered users or exempt users as defined in North Carolina §143-215.22H(c) for units of local government or agriculture as defined by 15A NCAC 02E .0301(d) and §143-215.22H(b1). The registration requirement has no impact on how much water is withdrawn or from what source. Registration of a withdrawal or transfer no later than two months after initiation remains.

Implementation of the registration fee is authorized under General Powers of the Commission and Department; Auxiliary Powers §143-215.3.

1 **SECTION .0300 - REGISTRATION OF WATER WITHDRAWALS AND TRANSFERS**

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3 **15A NCAC 02E .0301 APPLICATION; PROCESSING FEES**

4 (a) Any person subject to G.S. 143-215.22H, shall complete, sign, and submit an application for registration, on a
5 form provided by the Department, to the Director of the Division of Water Resources. The registration application
6 and registration processing fee as set forth ~~in Paragraph (b) of this rule (if applicable)~~ shall be mailed to the Division
7 of Water Resources, North Carolina Department of ~~Environment, Health, and Natural Resources, Post Office Box~~
8 ~~27687, Raleigh, North Carolina 27611-7687~~ Environmental Quality, mailing address shall be provided by Division of
9 Water Resources.

10 (b) Except as otherwise provided in this Rule, a non-refundable registration processing fee in the amount of fifty
11 dollars (\$50.00) shall be paid when the registration application form is submitted.

12 (1) No registration application form is complete until the registration processing fee is paid.

13 ~~(2) Each facility from which a person withdraws or transfers one million gallons per day or more must~~
14 ~~be separately registered. The registration application for each facility to be registered must include~~
15 ~~the fee in the amount set forth in this Rule.~~

16 ~~(3)(2) A late registration fee in the amount of five dollars (\$5.00) per day for each day the registration of~~
17 ~~a water transfer or withdrawal is late, up to a maximum of five hundred dollars (\$500.00), shall be~~
18 ~~assessed as a penalty for failure to register the water transfer or withdrawal in a timely manner. The~~
19 ~~penalty pursuant to G.S. 143-215.22H(e) shall stop~~ stops accruing on the date of receipt of the
20 completed registration application by the Division of Water Resources.

21 ~~(4)(3) Payment of the registration processing fee may be by check or money order made payable to the~~
22 ~~"N. C. Department of Environment, Health, and Natural Resources."~~ "N. C. Department of
23 Environmental Quality." The check or money order shall refer to the water withdrawal or transfer
24 registration application.

25 (c) Except as otherwise provided in this Rule, upon receipt of a ~~properly~~ completed application form and the
26 registration processing fee, the applicant shall be issued a receipt of registration.

27 (d) Pursuant to G.S. 143-215.3(a)(1a), and G.S. 143-215.22H, no fees including late registration fees for failing to
28 register or update registrations in a timely manner, are required to be paid under this Rule by a farmer ~~who submits an~~
29 ~~application for or an update of a registration of a withdrawal or transfer that pertains to farming operations. Upon~~
30 ~~receipt of a properly completed application from a farmer, the applicant will be issued a receipt of registration. whose~~
31 activities are directly related or incidental to the production of crops, fruits, vegetables, ornamental and flowering
32 plants, dairy products, livestock, poultry, and other agricultural products, or to the creation or maintenance of
33 waterfowl impoundments.

34 (e) Pursuant to G.S. 143-215.22H(e), separate registration of a water withdrawal or transfer is not required of a local
35 government that completes and periodically revises and updates its water supply plan pursuant to G.S. 143-355(l).

36 (f) Any person who withdraws or transfers one million gallons or more in any single day must register the withdrawal
37 or transfer.

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History Note: Filed as a Temporary Rule Eff. October 14, 1991 for a Period of 180 Days to Expire on April 11, 1992;
Authority G.S. 143-215.3(a)(1a); 143-215.3(a)(1b); 143-215.22H; ~~143-355(1)~~;
Eff. April 1, 1992;
Amended Eff. September 1, 1994.