

Draft Operational Guidance for 2023 WOTUS Rules for NCDOT

New WOTUS Rules are scheduled to be released in March 2023.
This page serves as a quick reference to the scope and implementation of those changes for NCDOT to ensure compliance and consistency.

2/16/2023 Update:

At the Interagency Meeting, The Corps [Monte Matthews] indicated training is planned and ready as soon as Corps Headquarters releases the training materials.
We are ready to set up the training as soon as the Corps is ready.

Expectations based on previous rule changes:

- **As with previous WOTUS revisions, this will NOT change what we delineate in the field. All wetlands in NC are Waters of the State. So regardless of federal jurisdiction changes, they will be regulated by the State.**

Continue to delineate anything that has a high-water mark or the 3 wetland parameters.

- **For the few NCDOT projects WOTUS may impact, it will likely only impact the “paperwork” elements – Jurisdictional Determinations and Environmental Permitting**

e.g., identifying, and quantifying systems regulated by separate agencies.

- **It initially appears that the previous “permitting gap” issue, and the additional exercises necessary to determine jurisdiction (DWR vs Corps) may be resolved.**

General statement on the frequency of WOTUS Rule changes and what we can do to adapt:

Although the impacts by this WOTUS rule change are anticipated to be minor, the frequency of these changes creates long-term uncertainty for our field. As transportation projects take years to develop, design, and build, we can no longer trust that today’s resources will be regulated by the same definition in the future.

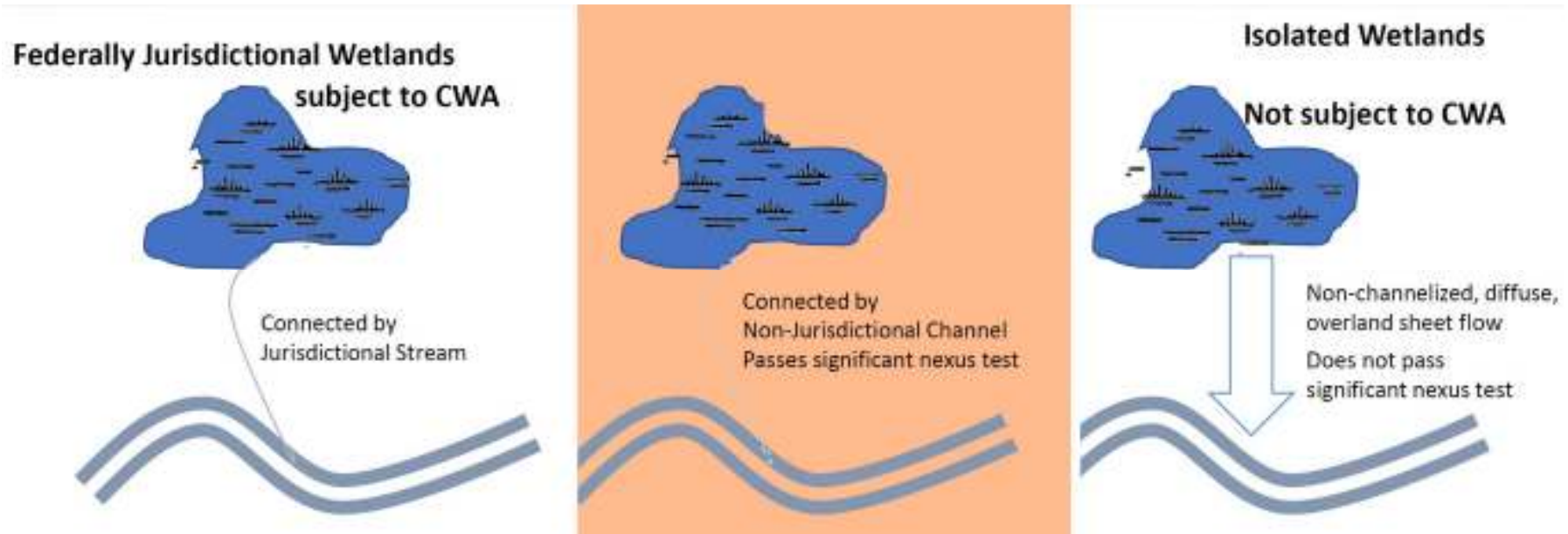
This adds difficulty to project predictability and planning for the type of permit needed, and the time it takes to acquire the permit.

As such, we continue to recommend taking a “hard look” at the wetland resources as you review an NRTR or JD Package for your projects.

If you have resources that are not clearly connected to other waterbodies, it is good to note that as a system that could be impacted by future WOTUS rule changes.

ECAP will continue to investigate more resilient, longer-term solutions to this dilemma.

Reminder: WOTUS rule changes impact the Federal Regulation of wetlands, primarily in the middle scenario:



In North Carolina, all wetlands -all three scenarios- are “Waters of the State” and are regulated by DWR.