Not One Step Back: North Carolina's Fracking Rules Are Under Review — Make Your Voice Heard by November 9

For the first time in a decade, every rule governing oil and gas drilling in North Carolina is up for public review. The hard-won protections of 2015 — baseline testing of nearby water wells, chemical disclosure, and the presumption that a driller is responsible for the contamination it causes —could be rewritten in the readoption to come. This is the moment to put your stake in the ground.

By Dr. Temitope D. Soneye • September 2026



In addition to Butler Well No. 3, there is a second natural gas resource in Lee County, known as Simpson Well No. 1, pictured here.
(photo from NCDEQ)

A once-in-a-decade window just opened

On September 1, 2026, the North Carolina Oil and Gas Commission opened something that happens only once every ten years: a public comment period on whether the state's oil and gas rules should continue to exist at all.

The rules in question are Subchapter 15A NCAC 05H, "Oil and Gas Conservation" — the roughly 120 rules that govern everything from how far a gas well must sit from your home, to who tests your well water before and after drilling, to what a drilling company must disclose about the chemicals it pumps underground. Under a 2013 state law (G.S. 150B-21.3A), every North Carolina agency must review its rules each decade and decide which are "necessary" and which are "unnecessary." Rules deemed unnecessary simply expire.

The preliminary comment period closes **November 9, 2026**. Comments go to **OilandGas@deq.nc.gov**, and the Commission asks that you cite the specific rule number your comment addresses — for example, *15A NCAC 05H .1802*.

Here is the part that matters most: the Commission's initial determination is that *every single 05H rule is necessary*. That sounds like good news, and it is — as far as it goes. But this review is only the first step. Rules classified as necessary move into **readoption**: a full rulemaking in which any rule can be amended, weakened, or rewritten. Clean Water for North Carolina has warned that at least one commissioner favors reshaping North Carolina's rules to look more like Pennsylvania's — a state whose enthusiastic embrace of fracking has left behind thousands of documented cases of contamination of ground water, leading to nearby well contamination — in order to encourage more drilling here. The November 9 comments set the terms of that coming fight. Silence now would be read as consent later.

How North Carolina got here

North Carolina's oil and gas story is long on geology and short — so far — on drilling. The Oil and Gas Conservation Act dates to 1945, and early rules took effect in 1976. For decades, an effective ban on horizontal drilling and hydraulic fracturing kept the state's shale gas where it was: underground.

That changed in 2012, when the General Assembly (S.L. 2012-143) lifted the moratorium, legalized horizontal drilling and fracking, and created the Mining and Energy Commission to write the rules. In 2014 (S.L. 2014-4), lawmakers created a standalone Oil and Gas Commission, repealed the old rules, and adopted the modern 05H rulebook, effective March 17, 2015. Those 2015 rules were written with heavy public input — including from the FrackFreeNC Alliance, the coalition of some 35 grassroots and rural organizations co-founded by Clean Water for North Carolina and the Haw River Assembly — and they contain some of the strongest drinking-water protections attached to any state fracking program in the country.

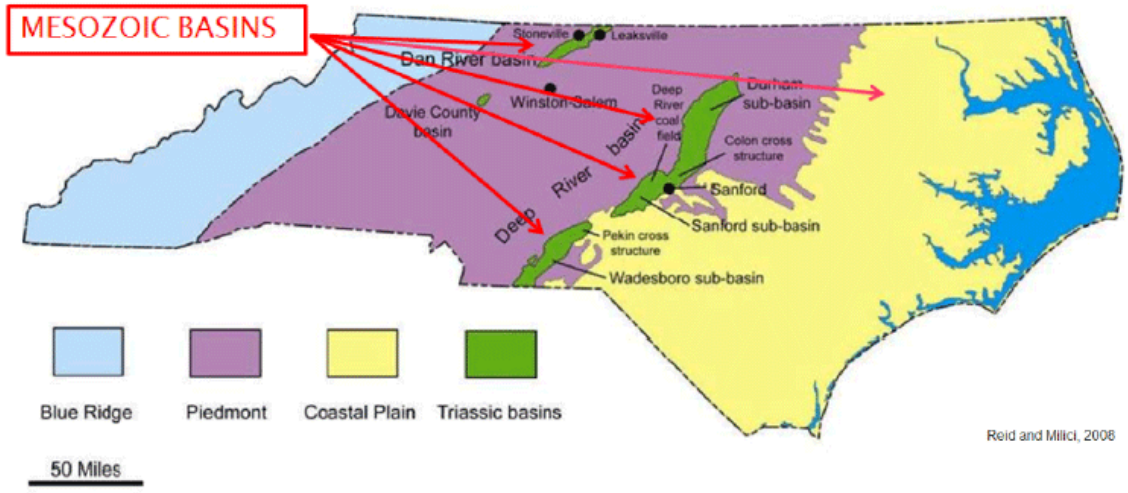
Here is the remarkable fact underneath it all: **in the eleven years since those rules took effect, not a single oil or gas drilling permit has been issued in North Carolina.** The Commission's own annual report confirms it. The rules have never been tested by a drill bit — which is precisely why this review matters. The rulebook is the only thing standing between North Carolina's communities and an industry that has never stopped watching.

The geology hasn't changed — and neither has the industry's interest

The gas is real, even if the drilling isn't — yet. Beneath the Piedmont lie the Triassic rift basins: the Deep River basin, running 150 miles from Durham County southwest through Chatham, Lee, and Moore counties, and the Dan River–Danville basin stretching across Stokes and Rockingham counties into Virginia.

The U.S. Geological Survey's 2012 national assessment estimated the Deep River basin holds a mean of **1,660 billion cubic feet of technically recoverable natural gas**, plus 83 million barrels of natural gas liquids, with the Dan River–Danville basin adding another 49 billion cubic feet (Milici et al., 2012). In the Sanford sub-basin — Lee and Chatham counties — the gas-prone Cumnock Formation black shale runs up to 800 feet thick across some 59,000 acres at depths reachable by modern drilling. In fact, the gas bearing shales in NC are MUCH shallower than shales being fracked in PA, TX, CO, in some places less than 3,000 feet below the surface, closer to the level where water supply wells draw from. Two old exploratory wells there, the Butler #3 and Simpson #1, were shut in with measured pressures of 900 and 300 psi respectively — proof that the gas is pressurized and waiting.

And the industry is still watching. The Oil and Gas Commission's 2025 annual report notes "preliminary interest related to existing exploratory wells in Lee County as well as other Deep River Basin preliminary interest." When the rules get rewritten, the audience will include companies deciding whether North Carolina is worth the investment. Weak rules are an invitation.



North Carolina's Triassic rift basins: the Dan River basin and the Deep River basin with its Durham, Sanford, and Wadesboro sub-basins. (Reid and Milici, 2008, NC Geological Survey; public domain via Wikimedia Commons. The red "MESOZOIC BASINS" annotation was added by a Wikipedia editor.)

What's actually at stake in the rulebook

Buried in the 05H rulebook's 22 sections are the protections that communities fought for in 2014–2015. The most important ones for water:

Baseline water-well testing (Section .1800, Rules .1801–.1807). Before drilling begins, operators must notify landowners and test water-supply wells within a half-mile of the wellhead — and test again afterward. Rules .1802 through .1805 spell out the notifications, procedures, investigations, and reporting.

Without baseline testing, a family whose well turns cloudy or foul after fracking begins has no way to prove what their water looked like before. This is the single most important drinking-water protection in the rulebook.

Presumptive liability. North Carolina law presumes that contamination of a nearby water supply was caused by oil and gas operations unless the driller can show otherwise. The burden of proof sits with the company, not the family. In most states, it's the other way around — and families without baseline data almost always lose.

Chemical disclosure (Section .1700, Rules .1701–.1703). Operators must disclose the chemicals used in hydraulic fracturing. Trade-secret claims can still shield specific formulas — a loophole communities have criticized since 2015 — but the disclosure framework itself is what lets researchers, health professionals, and neighbors know what's being pumped near their water.

Setbacks, construction, and waste (Sections .1600, .1900, .2000). Rules .1601–.1603 set how far wells must be from homes, schools, and water supplies; and FrackfreeNC believes those setbacks must be increased for adequate protection; .1605–.1616 govern casing, cementing, and blowout prevention — the engineering that keeps gas and chemicals out of aquifers; .1901–.1906 require water-management plans documenting where fracking water comes from; and .2001–.2007 govern drilling waste disposal and pit closures.

Every one of these was initially classified "necessary" by the Commission. The public's job before November 9 is to agree — loudly, specifically, and on the record — and to put the Commission on notice that any readoption must strengthen, not weaken, these protections.

Why this is an environmental justice fight

The Triassic basins don't underlie Raleigh's suburbs. They underlie rural communities in Lee, Chatham, Moore, Stokes, and Rockingham counties — places where many families drink from private wells, where incomes are lower, and where residents have the fewest resources to test their water, hire experts, or fight a contamination case against a drilling company. North Carolina has one of the largest private-well populations in the nation, and private wells are not covered by the federal Safe Drinking Water Act. For these households, the 05H rules *are* the drinking-water regulation.

The history here matters too. The FrackFreeNC Alliance that helped write the 2015 protections was built precisely from these communities — about 35 largely grassroots and rural organizations. CWFNC's leadership has said it plans to revitalize that alliance for this review. The 2015 rulebook was a compromise, but it was a compromise that rural communities had a hand in writing. A rewrite conducted without them would not be.

What happens after November 9

The review doesn't end when this preliminary comment period closes— it escalates. The Commission must respond to the comments, make final necessary/unnecessary determinations, and report to the state's Rules Review Commission. Every rule deemed necessary then enters **readoption**: draft rule text, a fiscal note, and a minimum 60-day public comment period with public hearings. That is when specific weakening amendments will surface — and when the detailed, rule-by-rule fight CWFNC is preparing for will begin. Expect a second action alert when the draft readoption text appears.

Take action: comment by November 9, 2026

Email: OilandGas@deq.nc.gov — put **15A NCAC 05H** in the subject line so the Commission knows which rules you're addressing **Or mail:** NC Department of Environmental Quality, Division of Energy, Mineral, and Land Resources, Oil and Gas Commission (Attn: Rules review), 1612 Mail Service Center, Raleigh, NC 27699-1612 **Reference:** deq.nc.gov — "Rules Review" page (Oil and Gas Commission – 15A NCAC 05C and 05H)

Three things make a comment count:

1. **Cite specific rule numbers.** The Commission explicitly asks for this — e.g., *15A NCAC 05H .1802* (water supply testing notifications). Comments that "address the specific substance of the rule" carry legal weight under G.S. 150B-21.9; general statements of support or opposition carry less.
2. **Say the protective rules are necessary — and say why.** If your family drinks well water within the shale basins, say so. If you've seen what fracking did to water supplies in Pennsylvania or Ohio, say so. Personal, place-based comments are the ones commissioners remember.
3. **Oppose weakening in readoption.** State clearly that the 2015 water protections — baseline testing within a half-mile, presumptive liability, chemical disclosure, setbacks — must be retained and strengthened, not traded away to attract drilling investment.

Clean Water for North Carolina will be circulating talking points and sample comments — watch cwfnc.org and the CWFNC newsletter. But don't wait for a template to speak in your own words. November 9 is the deadline; the rulebook is the prize.

References

NC Department of Environmental Quality, "Rules Review" — Oil and Gas Commission, 15A NCAC 05C and 05H; comment period Sept. 1–Nov. 9, 2026. https://deq.nc.gov/accessdeq/rules-regulations/rules-review

Oil and Gas Commission, "G.S. 150B-21.3A Report for 15A NCAC 05H, Oil and Gas Conservation" (initial determinations). https://www.deq.nc.gov/energy-mineral-and-land-resources/oil-and-gas-program/oil-gas-commission/initial-determinations15a-ncac-05h/open

NC Geological Survey, "Chronology of oil and gas regulations in North Carolina." https://www.deq.nc.gov/oil-and-gas-chronologypdf/open

Reid, J.C. & Taylor, K.B. (2013), "Mesozoic rift basins — Onshore North Carolina and southcentral Virginia, U.S.A.: Deep River and Dan River-Danville total petroleum systems," NCGS Open-File Report 2013-01. https://www.deq.nc.gov/north-carolina-geological-survey-mesozoic-rift-basins/open

Milici, R.C. et al. (2012), "Assessment of undiscovered oil and gas resources of the East Coast Mesozoic basins," USGS Fact Sheet 2012–3075.

Oil and Gas Commission, Report to the NC General Assembly (2025 proceedings). https://www.deq.nc.gov/legislative-reports/oil-and-gas-commission-annual-report-1/open

N.C.G.S. § 150B-21.3A (Periodic review and expiration of existing rules).

S.L. 2012-143; S.L. 2014-4.

Clean Water for North Carolina, "Keep NC Frack Free! Take action today!" (action alert, Sept. 16, 2026).