



Erosion and Sedimentation Control – Laws and Rules
Division of Energy, Mineral, and Land Resources

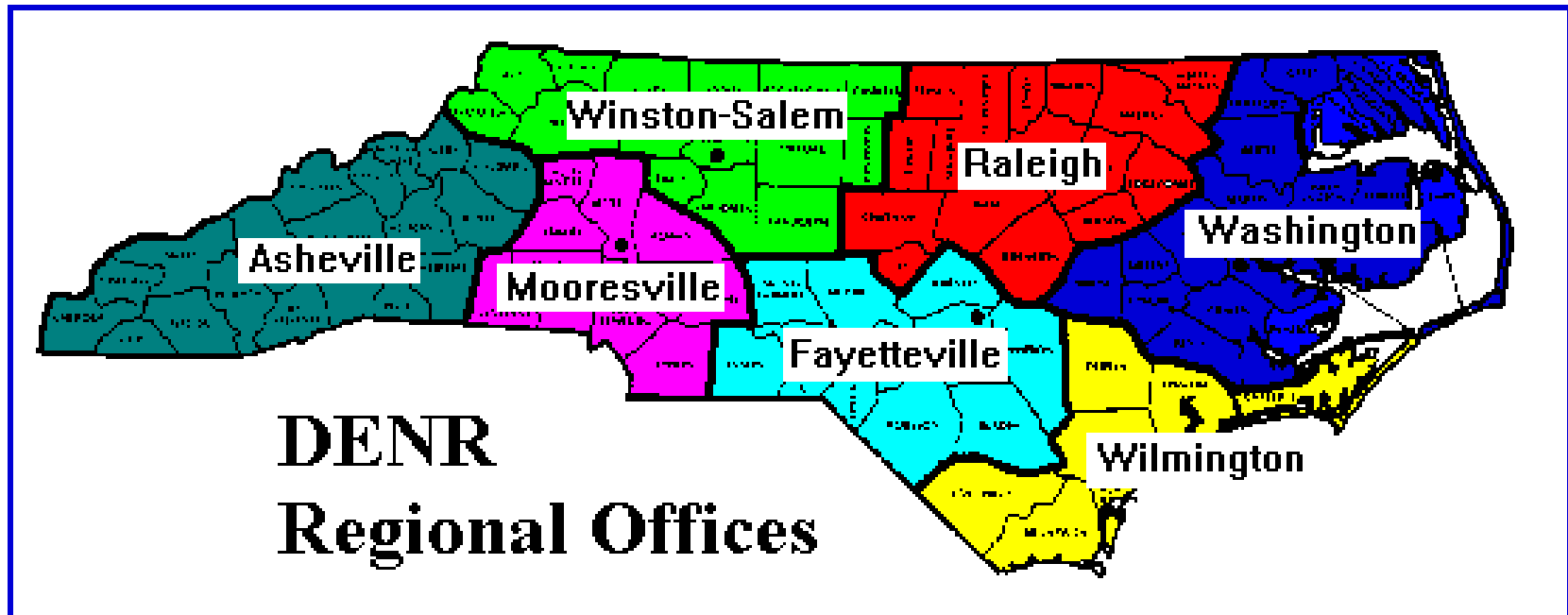
*Department of Environmental Quality
Local Programs Erosion & Sediment Control Workshop*

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Regional Offices



Regional Office Relocations

- Asheville Regional Office – Stan Aiken, PE, Regional Supervisor
2090 U.S. 70 Highway Swannanoa, NC 28778-8211
Phone: 828-296-4500, Fax: 828-299-7043
- Fayetteville Regional Office – Tim LaBounty, PE, Regional Supervisor
225 Green Street, Suite 714, Fayetteville, NC 28301-5095
Phone: 910-433-3300, Fax: 910-486-0707
- Mooresville Regional Office – Zahid Khan, MS, Regional Supervisor
610 East Center Avenue, Suite 301, Mooresville, NC 28115
Phone: 704-663-1699, Fax: 704-663-6040
- Raleigh Regional Office – Bill Denton, PE, Regional Supervisor
3800 Barrett Drive, Raleigh, NC 27609
Phone: 919-791-4200, Fax: 919-571-4718
- Washington Regional Office – Samir Dumpor, PE, Regional Supervisor
943 Washington Square Mall, Washington, NC 27889
Phone: 252-946-6481, Fax: 252-975-3716
- Wilmington Regional Office – Dan Sams, PE, Regional Supervisor
127 Cardinal Drive Ext., Wilmington, NC 28405
Phone: 910-796-7215, Fax: 910-350-2004
- Winston-Salem Regional Office – Matt Gantt, PE, Regional Supervisor
450 West Hanes Mill Road, Suite 300, Winston-Salem, NC 27105
Phone: (336) 776-9800, Fax: (336) 776-9797





Sedimentation & Erosion Control Program

To allow development within our State while preventing pollution by sedimentation

- Enforces Sedimentation Pollution Control Act of 1973
- Oversees local sedimentation programs
- Educational Outreach
- Covers all land disturbing activities except agriculture and mining (conditional forestry exemption)



- 7,000+ active projects
 - 2,000+/- new/year

Statutes, Rules and Permits



- Sedimentation Pollution Control Act of 1973 as amended through 2017 (North Carolina General Statutes 113A-50 et. Seq.) enacted by the General Assembly.
- North Carolina Administrative Code Title 15A Chapter 4 Subchapter A-E adopted by the Sedimentation Control Commission



Cornerstones of the Erosion and Sedimentation Control Program

- Erosion and Sedimentation Control Plan Approval
- Automatic Issuance of NPDES Construction Stormwater Permit NCG 010000 upon E&SC Approval (CURRENTLY)
- Implementation of the Approved Plan
- Buffer Zones for Streams and Lakes
- Prevention of Sedimentation Damage
- Establishment of Ground Cover





- Plan Required –

No person shall initiate any land-disturbing activity which uncovers more than one acre without having an erosion control plan approved by the SCC or local program.

- Protection of Property –

Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activity.

Provisions of the SPCA

Five Mandatory Standards for Land-Disturbing Activity, #1

Buffer Zone No land-disturbing activity during periods of construction or improvement to land shall be permitted in proximity to a lake or natural watercourse unless a buffer zone is provided along the margin of the watercourse of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity.... Then there is Trout Water Buffers....Not a 101 Class Topic



Provisions of the SPCA

Five Mandatory Standards for Land-Disturbing Activity, #2

Graded Slopes and Fills - The angle for graded slopes and fills shall be no greater than the angle which can be retained by vegetative cover or other adequate erosion control devices or structures....
(and which can be demonstrated to be stable with or without mechanical constraints.)... In any event, slopes left exposed upon completion of any phase of grading, will be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion.



Provisions of the SPCA

Five Mandatory Standards for Land-Disturbing Activity, #3

Ground Cover - Whenever land-disturbing activity that will disturb more than one acre is undertaken on a tract, the person conducting the land-disturbing activity **shall install erosion and sedimentation control devices** and practices that are sufficient to retain the sediment generated by the land-disturbing activity **within the boundaries of the tract during construction** upon and development of the tract, and **shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion** after completion of construction or development within a time period to be specified by rule of the Commission.



Provisions of the SPCA

Five Mandatory Standards for Land-Disturbing Activity, #4

Prior Plan Approval - No person shall initiate any land-disturbing activity that will disturb more than one acre on a tract unless, 30 or more days prior to initiating the activity, an erosion and sedimentation control plan for the activity is filed with the agency having jurisdiction and approved by the agency.

Express Reviews

In the case of a plan that involves ditches for the purpose of de-watering or lowering the water table of the tract, the approving agency will send a copy to DWR.



Provisions of the SPCA

Five Mandatory Standards for Land-Disturbing Activity, #5

Follow Approved Plan - The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan.



Provisions of the SPCA

Additional Provisions for Special Water Classifications

- Trout Waters (Buffer Variance, Also treat as HQW for sizing measures) (These applications go to the appropriate Regional Office. ARO, MRO and WSRO)
- High Quality Waters (25 year design storm and 20 acre limit on uncovered areas)
- Nutrient Sensitive Waters with Riparian Buffer Zones (DWR requirements in effect)
- All Other Waters (10 year design storm)





First Time Recipients of Civil Penalty Assessments (CPAs)

- Violations of the SPCA may be assessed up to \$5,000 per day
- Each day of a continuing violation is considered a separate violation

First Time Recipients of Civil Penalty Assessments (CPAs)

What's New? Reminder, how's this going?

If a person has never been assessed a penalty under the SPCA

AND

That person abates continuing environmental damage resulting from the violation(s) within 180 days from the date of the Notice of Violation (NOV)

THEN

The maximum cumulative total civil penalty which may be assessed is \$25,000



Civil Penalty Remissions

- New to E&SC program
- Must be made within 60 days of receipt of the CPA
- Must stipulate to the facts (admit violations) on which the assessment was based and waive the right to appeal to OAH
- Remissions requests will be heard by the Sedimentation Control Commission

Civil Penalty Remissions, cont.

Factors which may be considered:

- Whether the CPA factors were wrongly applied
- Whether the violator promptly abated continuing environmental damage
- Whether the violation was inadvertent or accidental
- Whether the violator has received previous CPAs
- Whether payment of the CPA would cause significant financial hardship
- Assessed property tax valuation of the property on which the violation occurred

Civil Penalty Remissions, cont.

- The petitioner has the burden of proving the financial impact of a civil penalty or showing that it will create a hardship.
- The Sedimentation Control Commission (SCC) may remit the entire amount only if the petitioner has not been assessed civil penalties for previous violations and payment of the civil penalty will prevent payment for necessary remedial actions.
- The SCC cannot increase a penalty, but can only decrease it should they choose.

First Time Recipients of Notices of Violations (NOVs)

- If a person has not received a Notice of Violation under the SPCA, then we (state LQS or local delegated program) shall deliver the NOV in person and shall offer technical assistance in developing corrective measures.
- If the NOV cannot be delivered in person within 15 days following the inspection which noted the violations, then the NOV may be sent via certified mail.

Added New Exemptions to the Sediment Act:

- Activities undertaken to restore the wetland functions of converted wetlands to provide compensatory mitigation to offset impacts permitted under Section 404 of the Clean Water Act.
- Activities undertaken pursuant to Natural Resources Conservation Service standards to restore the wetland functions of converted wetlands as defined in Title 7 Code of Federal Regulations § 12.2 (January 1, 2014 Edition).
- These are not exempt from NCG010000 Construction SW

Legislative Changes

North Carolina Farm Act of 2016 (SL 2016-113,
Senate Bill 770)

Amended the SPCA to add a new exemption under **NCGS 113A-52.01(1)**:

This Article shall not apply to the following land-disturbing activities: (1) Activities, including the production and activities relating or incidental to the production of crops, grains, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry, and all other forms of agriculture undertaken on agricultural land for the production of plants and animals useful to man, including, but not limited to:

- a. Forages and sod crops, grains and feed crops, tobacco, cotton, and peanuts.
- b. Dairy animals and dairy products.
- c. Poultry and poultry products.
- d. Livestock, including beef cattle, llamas, sheep, swine, horses, ponies, mules, and goats.
- e. Bees and apiary products.
- f. Fur producing animals.
- g. Mulch, ornamental plants, and other horticultural products. For purposes of this section, "mulch" means substances composed primarily of plant remains or mixtures of such substances.

As Related to the Forestry Exemption...

SECTION 6.(a) G.S. 113A-52.01 reads as rewritten:

§ 113A-52.01. Applicability of this Article

This Article shall **not** apply to the following land-disturbing activities:

(2) Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with standards defined by the Forest Practice Guidelines Related to Water Quality, as adopted by the Department of Agriculture and Consumer Services.



SECTION 6.(b) G.S. 113A-52.1 reads as rewritten:

§ 113A-52.1. Forest Practice Guidelines

(a) The Department of Agriculture and Consumer Services shall adopt Forest Practice Guidelines Related to Water Quality (best management practices). The adoption of Forest Practices Guidelines Related to Water Quality under this section is subject to the provisions of Chapter 150B of the General Statutes.



Legislative Changes

Amendments to SPCA through Session Law 2017-108
(Senate Bill 615)

(c) The Commissioner shall establish and appoint a Forestry Technical Advisory Committee to assist in the development and periodic review of Forest Practice Guidelines Related to Water Quality. The Forestry Technical Advisory Committee shall consist of one member employed by the Department of Environmental Quality who is knowledgeable in erosion and sedimentation control,



Legislative Changes

Amendments to SPCA through Session Law 2017-108
(Senate Bill 615)

SECTION 6.(c) G.S. 113A-61.1 reads as rewritten:

§ 113A-61.1. Inspection of land-disturbing activity; notice of violation

(a) The Commission, a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60, or other approving authority shall provide for inspection of land-disturbing activities to ensure compliance with this Article and to determine whether the measures required in an erosion and sedimentation control plan are effective in controlling erosion and sedimentation resulting from the land-disturbing activity

The Department of Agriculture and Consumer Services may inspect land-disturbing activities undertaken on forestland for the production and harvesting of timber and timber products to determine compliance with the Forest Practice Guidelines Related to Water Quality adopted pursuant to G.S. 113A-52.1.



Legislative Changes

Amendments to SPCA through Session Law 2017-108
(Senate Bill 615)

SECTION 6.(c) G.S. 113A-61.1 reads as rewritten:

§ 113A-61.1. Inspection of land-disturbing activity; notice of violation

(b1) No person shall willfully resist, delay, or obstruct an authorized representative, employee, or agent of the Department of Agriculture and Consumer Services while the representative, employee, or agent is inspecting or attempting to inspect a land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products under this section.



SECTION 6.(d) G.S. 106-895 is amended by adding a new subsection to read:

§ 106-895. Powers of Department of Agriculture and Consumer Services.

(a) The Department of Agriculture and Consumer Services may take such action as it may deem necessary to provide for the prevention and control of forest fires in any and all parts of this State, and it is hereby authorized to enter into an agreement with the Secretary of Agriculture of the United States for the protection of the forested watersheds of streams in this State.

(a1) The Department shall adopt Forest Practice Guidelines Related to Water Quality pursuant to G.S. 113A-52.1 of the Sedimentation Pollution Control Act.





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