



Administrative Code Changes affecting the State Sedimentation Pollution Control Program in 2020

Division of Energy, Mineral and Land Resources

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Division of Energy, Mineral and Land Resources (DEMLR) Sedimentation Pollution Control Program

- Title 15A North Carolina Administrative Code, Chapter 04: Sedimentation Control
- Erosion & Sedimentation Control Plans
- Self-Inspections & Monitoring
- Sedimentation Program website changes



Title 15A NCAC

Sub-chapters 04A – 04E

<http://reports.oah.state.nc.us/>



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DESIGN STANDARDS FOR THE UPPER NEUSE RIVER BASIN (FALLS LAKE WATERSHED)

History of the Rule-Making Process

- North Carolina Administrative Code, Title 15A Chapter 04 Subchapter A-E adopted by the Sedimentation Control Commission (“The Sediment Rules”)
- A state law adopted in 2013 requires state agencies to review existing rules every 10 years. DEQ's rules are currently being reviewed on a schedule established by the state Rules Review Commission.



History of the Rule-Making Process

- Staff familiar with the rules-review process plus a 15-member workgroup consisting of consultants, contractors, homebuilders, professors, and other stakeholders. Met 10 times during 2017 to present a draft for the Sedimentation Control Commission to review. Rules also presented to Rules Review Commission.
- All rules made effective by June 1, 2020.



Overall Changes to Chapter 04

- Definitions
- Mandatory Standards for Land-Disturbing Activities

*Text in **bold** represents new or revised language.*



Overall Changes to Chapter 04

Definitions 15A NCAC 04A .0105

New - **“Approving Authority”**

Revised – **“Discharge Point” or “Point of Discharge”**

“Lake or Natural Watercourse”

“Person Who Violates” or “Violator”,

“Ten-Year Storm”, “Twenty-Five Year Storm”

“Velocity”



Overall Changes to Chapter 04

Mandatory Standards for Land Disturbing Activities

15A NCAC 04B .0107

(b) Provisions for groundcover after completion of construction changed from ~~15 working or~~ 90 calendar days to
just 90 calendar days

New (d) Language included for the requirement for obtaining coverage under the NCG01 permit if disturbance of 1 acre or more planned.



Changes Affecting Plan Preparation

- Basic **Erosion and Sedimentation Control Plan** Objectives
- Design and Performance Standards
- Approval of Plans
- Design Standards in Sensitive Watersheds



Changes Affecting Plan Preparation

Basic Erosion and Sedimentation Control Plan

Objectives 15A NCAC 04B .0106

(3) Limit Time of Exposure to shortest feasible time **specified in G.S. 113A-57, the rules of this Chapter, or as directed by the approving authority.**

....G.S. 113A-57 Mandatory standards for land-disturbing activity

Slopes left exposed will be planted or otherwise provided with temporary or permanent ground cover or structures sufficient to restrain erosion within 21 calendar days of completion of any phase of grading.



Changes Affecting Plan Preparation

Basic **Erosion and Sedimentation Control Plan**

Objectives 15A NCAC 04B .0106

(6) Manage Stormwater Runoff. Plans shall be designed to eliminate accelerated erosion resulting from an increase in the velocity of stormwater runoff **within the project boundary** as well as at the point of discharge.

So, not only the point of discharge, but also in the stormwater conveyance within the project boundary.



Changes Affecting Plan Preparation

Design and Performance Standards

15A NCAC 04B .0108

Change allows for runoff computation methodologies equivalent to, or improved over, procedures within the NRCS “National Engineering Field Handbook”.

The Approving Authority shall determine acceptability.



Changes Affecting Plan Preparation

Approval of Plans

15A NCAC 04B .0118

- (a) No requirement to file 3 copies of the plan;
- (b)(2)(C), (b)(2) ~~approved with performance reservations~~
- (c) Plans **shall** be disapproved unless the application includes an authorized statement of financial responsibility and **documentation of property ownership**.

Replaces “may” with “shall” and clarifies what is required as proof of ownership.



Changes Affecting Plan Preparation

Inspections and Investigations

15A NCAC 04B .0120

(d) When a pre-construction conference is proposed pursuant to the Preamble, the **request must be set forth in the plan.**



Changes Affecting Plan Preparation

Design Standards in Sensitive Watersheds

15A NCAC 04B .0124

(a) Provides conditions under which the Director will consider in a waiver to the 20-acre disturbance limit.

(c) Removal of the 70% settling efficiency for the 40-micron particle size...replace with criteria similar to that for our skimmer sediment basins within the Erosion and Sediment Control Planning & Design Manual (Chapter 6.64)



Changes Affecting Plan Preparation

Design Standards in Sensitive Watersheds

15A NCAC 04B .0124

(c) In order to provide for water quality protection in HQW zones, sediment basins that discharge to those areas shall be designed and constructed to meet the following criteria:

- (1) use a surface withdrawal mechanism, except when the basin drainage area is less than 1.0 acre;
- (2) have a minimum of 1800 cubic feet of storage area per acre of disturbed area;
- (3) have a minimum surface area of 325 square feet per cfs of Q25 peak inflow;
- (4) have a minimum dewatering time of 48 hours; and
- (5) incorporate 3 baffles, unless the basin is less than 20 feet in length, in which case 2 baffles shall be sufficient.



Changes Affecting Plan Preparation

Design Standards in Sensitive Watersheds

15A NCAC 04B .0124

(d) Allows for alternative basin designs or control measures to be used upon written request and upon demonstration that meeting ALL conditions will result in design or operational hardships AND that the alternative measures will provide an equal or more effective level of erosion and sedimentation control on the site.



Changes Affecting Plan Preparation

Design Standards in Sensitive Watersheds

15A NCAC 04B .0124

(e) Repealed the ground cover provision for sensitive watersheds and reverts to 90 calendar days for providing cover following construction or development.



Changes Affecting Plan Preparation Riparian Buffer Rules

Riparian buffer rules **effective June 15, 2020**

15A NCAC 02B

Affects: Neuse, Tar-Pamlico, Catawba, Randleman and
Goose Creek watersheds

<https://deq.nc.gov/about/divisions/water-resources/water-quality-permitting/401-buffer-permitting-branch/riparian>



Changes Affecting Plan Preparation Riparian Buffer Rules

TABLE OF USES

Existing Category	New Category
Exempt	Deemed Allowable
Allowable	Allowable Upon Authorization
Allowable with Mitigation	Allowable with Mitigation upon Authorization
Prohibited	Prohibited

***New** Allowable upon Exception – for any activities not specifically listed within the Table of Uses



*Changes Affecting Plan Preparation
Riparian Buffer Rules*

**Table of Uses: Temporary Sediment and
Erosion Control Devices**

Devices allowed provided that the disturbed area is restored to pre-construction topographic and hydrologic conditions AND replanted with comparable vegetation within 2 months of project completion.

Applies also to temporary roads



*Changes Affecting Plan Preparation
Riparian Buffer Rules*

**Table of Uses: Temporary Sediment and
Erosion Control Devices**

Devices allowed in Zone 2 **provided that groundcover is established within the timeframes required by the SPCA**, vegetation in Zone 1 is not compromised, and that discharge is released in a **dispersed manner as defined in 15A NCAC 02H .1002**. **Wooded riparian areas to be restored within 5 years.**



*Changes Affecting Plan Preparation
Riparian Buffer Rules*

Table of Uses: Temporary Sediment and Erosion Control Devices

Devices allowed upon authorization in Zones 1 or 2 to control impacts associated with uses identified in the table **or that have received an Authorization Certificate with Exception**, provided sediment and erosion control for upland areas is addressed outside of the riparian buffer.



*Changes Affecting Plan Preparation
Riparian Buffer Rules*

**Table of Uses: Temporary Sediment and
Erosion Control Devices**

**In-stream devices allowed for work in a channel that is
authorized under Sections 401 & 404 of the Federal
Clean Water Act.**



Changes Affecting Plan Preparation Riparian Buffer Rules

What has not changed?

- No changes to the Jordan Lake Buffer Rules
- No changes to what features are subject to the rules
- No changes to the width or definition of Zones 1 or 2



Changes Affecting Inspections

Certificate of Plan Approval

15A NCAC 04B .0127

- (a) **Hard copy or electronic submittal allowed to be issued.**

Allows for posting at the primary entrance of the job site or other location that is observable to the public and inspectors.



Changes Affecting Inspections

Self-Inspections

15A NCAC 04B .0131

Phases of the Plan:

- (1)(a) **initial** installation of erosion control measures;
- (b) clearing and grubbing of existing ground cover;
- (c) completion of any grading that requires ground cover;
- (d) completion of all **land-disturbing activity**, construction, or development, including permanent ground cover establishment **and removal of all temporary measures**; and

Old (d) completion of storm drain facilities omitted



Changes Affecting Inspections

Self-Inspections

15A NCAC 04B .0131

Phases of the Plan, cont.:

(1)(e) transfer of ownership or control of the tract where the E&SC plan has been approved and work has begun.

The new owner or person in control shall conduct and document inspections until the project is permanently stabilized as set for in Sub-Item (c)...

(c) completion of any grading that requires ground cover



Changes Affecting Inspections

Self-Inspections

15A NCAC 04B .0131

- (2)(b) Visual verification specified for ground cover and other measures and practices called for on the approved plan.

- (c) Verification by measurement of settling basins, temporary construction entrances, energy dissipators, sediment traps.



Combined SPCA Self-Inspection & NCG01 Monitoring Form

DEMLR Monitoring Form Rev. 07012020

PART 2: STORMWATER PLANS AND CONTROLS: For each question below, mark the corresponding box as Yes, No or N/A. For all items marked "No", note in Part 3A the Reference letter and provide the Corrective Action and location of the deficiency, the original date noted, and the date it was noted as being corrected. NOTE: Reference letters may be used multiple times.

Reference	Part 2A: Storm Water Plans and Related Documents	Yes	No	N/A
A	Is the approval letter or certificate, COC and a copy of the NPDES Construction General Permit (CGP) on site? (Readily available electronic copy of CGP is acceptable)			
B	Is the approved plan on site and current?			
Reference	Part 2B: Stormwater Pollutant Controls	Yes	No	N/A
C	Are erosion and sediment controls that are shown on the approved plan installed and operating properly with no repairs needed?			
D	Are stormwater controls that are shown on the approved plan installed and operating properly with no repairs needed?			
E	Vehicle Tracking: Are construction entrances operating properly with no repairs needed?			
F	Soil Stabilization: Are areas of the site where construction activities have ceased been properly stabilized within the required timeframes?			
G	Are earthen stockpiles stabilized or otherwise protected from sediment loss, and located at least 50 feet away or downhill from drain inlets and surface waters?			
Reference	Part 2C: Non-Storm Water Pollutant Controls	Yes	No	N/A
H	Concrete, stucco, paint, etc. washouts: Are washouts installed, properly located, posted and operating with no repairs needed?			
I	Solid & hazardous wastes: Are trash, debris, and hazardous materials properly managed?			
J	Sanitary waste: Are portable toilets properly located and operating with no visible repairs needed?			
K	Equipment and stored fluids: Are fuels, lubricants, hydraulic fluids, etc. contained so as not to enter surface and ground waters?			
Report oil spills and the release of hazardous substances to the appropriate DEQ Regional Office via phone call or email within 24 hours of discovery. https://deq.nc.gov/contact/regional-offices				

For any items listed in the section below, a full description of sedimentation is required in Part 3A. This includes, but may not be limited to: location, estimated amount of sediment that has left the site and/or entered waters, apparent causes of the sediment loss, and what corrective actions need to be taken to prevent this from recurring.

Reference	Part 2D: Sedimentation	Yes	No	N/A
L	Are sediment or other pollutants noted beyond the approved or permitted limits of disturbance?			
M	Are BMPs detected as releasing sediment or other pollutants into receiving waters?			
Report visible sedimentation into streams or wetlands to the appropriate DEQ Regional Office via phone call or email within 24 hours of discovery. https://deq.nc.gov/contact/regional-offices				

Combined SPCA Self-Inspection & NCG01 Monitoring Form

DEMLR Monitoring Form Rev. 07012020

PART 3D: NEW OR REVISED MEASURES: Erosion and sedimentation control measures omitted or installed, at a minimum since the last inspection, shall be documented here or by initialing and dating each measure or practice shown on a copy of the approved erosion and sedimentation control plan. Alterations and relocations of measures shall also be documented if they significantly deviate from the approved plan. The removal of measures should also be documented. List dimensions of measures such as Sediment Basins and Dissipator Pads. Add rows as needed. Corrective actions should be included in Part 3A.

Measure ID or Location and Description	Proposed Dimensions (ft.)	Actual Dimensions (ft.)	Significant Deviation* from Plan? (Y/N)	Date measure observed as installed, altered, relocated or removed	Installed (I) Altered (A) Relocated (R) Removed (X)

*Significant deviation means any omission, alteration or relocation of an erosion or sedimentation control measure that prevents it from performing as intended.

Combined SPCA Self-Inspection & NCG01 Monitoring Form

*New for Lot Development

DEMLR Monitoring Form Rev. 07012020

PART 3A: EROSION AND SEDIMENTATION CONTROL MEASURES: Measures must be inspected at least ONCE PER 7 CALENDAR DAYS AND WITHIN 24 HOURS OF A RAINFALL EVENT EQUAL TO OR GREATER THAN 1.0 INCH PER 24 HOUR PERIOD. *Add rows as needed.*

Erosion and Sedimentation Control Measures Inspected							Inspection Date	Describe Actions Needed <u>Corrective actions should be performed as soon as possible and before the next storm event</u>	Date Previous Action(s) Observed as Corrected
Lot Number	Reference(s)	Lot BMPs Operating Properly? (Y/N)	Date Lot Noted as Active	Lot Information Date Lot Noted as Stabilized		Phase of Construction			

Report unanticipated bypasses, or non-compliance conditions that may endanger health or the environment, to the appropriate DEQ Regional Office via phone call or email within 24 hours of discovery. <https://deq.nc.gov/contact/regional-offices>

PART 3B: GROUND STABILIZATION: *Add rows as needed.*

Site area description and location where construction activities have temporarily or permanently ceased for more than the Time Limit	Time Limit for Ground Cover (see table below)	Have stabilization measures been installed? (Y/N)	Temporary or Permanent Stabilization (T/P)	Is Ground Cover Sufficient to Restrain Erosion? (Y/N)	Original Inspection Date	Describe Actions Needed <u>Corrective actions should be performed as soon as possible and before the next storm event</u>	Date Previous Action(s) Observed as Corrected

GROUND STABILIZATION TIMEFRAMES		
Site Area Description	Stabilization	Timeframe Variations
Perimeter dikes, swales and slopes	7 Days	None
High Quality Water (HWQ) Zones	7 Days	None
Slopes Steeper than 3:1	7 Days	7 days for perimeter dikes, swales, slopes and HWQ zones 14 days for slopes 10 ft or less in length and not steeper than 2:1 10 days for Falls Lake Watershed
Slopes 3:1 to 4:1	14 Days	7 days for perimeter dikes, swales, slopes and HWQ zones 7 days for slopes greater than 50 ft in length 10 days for Falls Lake Watershed
All other areas with slopes flatter than 4:1	14 Days	7 days for perimeter dikes, swales, slopes and HWQ zones 10 days for Falls Lake Watershed

Combined SPCA Self-Inspection & NCG01 Monitoring Form

**New for Lot Development*

DEMLR Monitoring Form Rev. 07012020

PART 3C: NEW OR REVISED MEASURES INCOMPATIBLE WITH PLAN: Erosion and sedimentation control measures installed, omitted, altered, relocated or removed since the last inspection which deviate significantly* from the approved erosion and sedimentation control plan shall be documented here or by initialing and dating each measure or practice shown on a copy of the approved plan. List dimensions of measures, if applicable, such as Construction Entrances. Add rows as needed. Corrective actions should be included in Part 3A.

Lot Number	Description of Measure that Deviates from Plan	Proposed Dimensions (ft.)	Actual Dimensions (ft.)	Date measure observed as installed, altered, relocated or removed	Installed (I) Altered (A) Relocated (R) Removed (X)

*Significant deviation means any omission, alteration or relocation of an erosion or sedimentation control measure that prevents it from performing as intended.

Website Updates – Forms

<https://deq.nc.gov/about/divisions/energy-mineral-land-resources/erosion-sediment-control/forms>

The screenshot shows the top navigation bar of the North Carolina Environmental Quality website. On the left is the state seal and the text "NORTH CAROLINA Environmental Quality". In the center is a search bar with the placeholder text "Search...". On the right are links for "NC.GOV", "AGENCIES", "JOBS", and "SERVICES". Below this is a green navigation menu with the following items: "Home", "Permits & Rules" (with a dropdown arrow), "Outreach & Education" (with a dropdown arrow), "Energy & Climate" (with a dropdown arrow), "Conservation" (with a dropdown arrow), "News" (with a dropdown arrow), and "About" (with a dropdown arrow).

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Erosion and Sediment Control Forms

Application Forms

- Financial Responsibility/Ownership ([MS Word](#) , [PDF](#) , [Fillable PDF](#))
- Plan Checklist for Designers ([MS Word](#) , [PDF](#) , [Fillable PDF](#))
- Plan Review Flowchart ([PDF](#))
- Notice of Plan Review Fee ([PDF](#))
- Ground Cover ([PDF](#))
- NPDES Ground Stabilization and Surface Dewatering ([PDF](#))

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[Erosion and Sediment Control Planning & Design Manual](#)

[Erosion and Sedimentation Newsletters](#)

[Sedimentation Control Commission](#)

Website Updates – Education & Training

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Erosion and Sediment FAQs

+ Who do I contact when sediment runs off a construction site?

+ Who do I contact for concerns or questions about erosion and sedimentation not regulated under the Sedimentation Pollution Control Act (SPCA)?

+ Who is affected by the SPCA?

+ What does the SPCA require?

+ What are the performance standards?

+ Who is responsible for maintenance?

Erosion and Sediment Control

[Erosion and Sediment Control Planning & Design Manual](#)

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Newsletter

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Newsletter of the North Carolina Sedimentation Control Commission

SEDIMENTS

State of North Carolina
Department of Environmental Quality

Division of Energy, Mineral, and Land Resources
Brain Wrenn, Active Director

ABOUT SEDIMENTS

SEDIMENTS is a newsletter published by the North Carolina Sedimentation Control Commission to provide information and assistance to the regulated community and to facilitate communication among personnel of state and local erosion and sedimentation control programs.

SEDIMENTS is available in electronic form at:

<https://deq.nc.gov/SEDIMENTS>

And via the WRRRI Sediments listserv. To subscribe follow the directions at:

<https://wrrri.ncsu.edu/contact-us/listservs/>

Send comments to the [Sediment Education Specialist](#).

Changes to the NC Administrative Code Title 15A Chapter 4: Sedimentation Control

The purpose of the NC Administrative Code Title 15A Chapter 4: Sedimentation Control (Code), is to help implement the Sedimentation Pollution Control Act of 1973 (SPCA). The SPCA was created to prevent pollution by sedimentation while still allowing development within our state. The SPCA is the enabling legislation that gives authority to the Sedimentation Control Commission (Commission) and the Department of Environmental Quality (DEQ) Division of Energy, Mineral, and Land Resources' (DEMLR) Land Quality Section (LQS) whilst the Code provides the administrative overview.

Legislation adopted in the 2013 session of the NC General Assembly required state agencies to review their rules according to specific pro-

RRC approved all the proposed rule changes except for two rules. The RRC objected to rule 15A NCAC 04C .0103 WHO MAY ASSESS and to rule 15A NCAC 04C .0106 CRITERIA. At their May 12, 2020 meeting the Commission voted in agreement with the RRC's objections and repealed both rules.

In addition to the two rules recommended for repeal by the RRC, the Commission repealed 11 other rules including: 15A NCAC 04C .0108 REQUESTS FOR ADMINISTRATIVE HEARING, 04C .0110 ADMINISTRATIVE HEARING, 04C .0111 FURTHER REMEDIES, 04D .0102 MODEL ORDINANCE, 04E .0101 GENERAL PURPOSE, 04E .0102 DEFINITIONS, 04E .0203 DISPOSITION OF PETITIONS, 04E .0403 WRITTEN SUB-

Laws and Rules

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Erosion and Sediment Control Laws and Rules

NOTICE: Sedimentation Control Rules Review and Re-adoption

Legislation adopted in the 2013 session of the NC General Assembly required state agencies to review their rules according to specific procedures. The law specifies that the agencies, in this case, the Sedimentation Control Commission (The Commission), go through its rules and present the revised rules for public review. With the help of the DEMLR staff and a workgroup of involved parties, the Commission developed proposed rule revisions and took them through the public involvement and hearing process. The rules were modified, based on comments received, and approved by the Commission on November 4, 2019. As specified in the statutes, the proposed rule changes were sent to the NC Rules Review Commission (RRC) for approval.

At their March 19, 2020 meeting, the RRC approved all the proposed rule changes except for two rules. The RRC objected to rule 15A NCAC 04C .0103 WHO MAY ASSESS and to rule 15A NCAC 04C .0106 CRITERIA. The Sediment Control Commission will be asked at their May 12, 2020 meeting if they agree with the RRC's objections or if they want to make changes that might be acceptable to the RRC. Those considerations will be on the agenda at a future RRC meeting. The sediment control rules as they are now in effect can be found at the link "Title 15A Chapter 4: Sedimentation Control" shown below. Any changes made in these two rules will be updated on that link. If you have any questions about the sediment control rules or program, contact Ms. Julie Coco, at julie.coco@ncdenr.gov.

The Act and the Code

Sedimentation Pollution Control Act of 1973

Erosion and Sediment Control

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For questions:

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