

North Carolina Sedimentation Control Law

The purpose of this section is to highlight the portions of the North Carolina Sedimentation Pollution Control Act of 1973 that may affect individuals involved in construction or other land-disturbing activities. The full text of the law is included in *Appendix 8.08*. Address specific questions regarding the interpretation of this law to your regional office of the Land Quality Section of the Department of Environment and Natural Resources (DENR).

This law is performance oriented: it prohibits visible off-site sedimentation from construction sites but permits the owner and developer to determine the most economical, effective methods for erosion and sedimentation control. This flexibility in the law allows for innovation and considers the uniqueness of each construction site; however, it also requires the developer to plan his activities carefully in light of their erosion potential. To control erosion and sedimentation and satisfy the intent of the law, the developer should employ an integrated system of control measures and management techniques. An effective control system is based on an understanding of the processes of erosion and sedimentation and the basic principles for their control. *Chapter 2* discusses these processes and principles.

Who is affected? The law governs all land-disturbing activities except agriculture and mining, which is regulated by the Mining Act of 1971. *Erosion and sedimentation control are required regardless of the size of the disturbance.* The law requires land developers to plan and implement effective temporary and permanent control measures to prevent accelerated erosion and off-site sedimentation. Further, if the installed protective measures do not work, additional measures must be taken.

What does the law require? The law requires installation and maintenance of sufficient erosion control practices to retain sediment within the boundaries of the site. It also requires that surfaces be non-erosive and stable within 15 working days or 90 calendar days after completion of the activity, whichever period is shorter. In certain High Quality watersheds this stabilization must be achieved within 15 working days or 60 calendar days after completion of the activity, whichever is shortest.

An erosion and sedimentation control plan must be submitted at least 30 days before land disturbance begins on any site 1 acre or larger. The erosion and sedimentation control plan must be approved by the regulatory agency before any land-disturbing activities are begun. The erosion control plan requires a thorough evaluation of the site and the proposed land-disturbing activities in the planning phase of the development. The details and requirements for this plan are found in *Chapter 4, Preparing the Erosion and Sedimentation Control Plan*. Primary requirements are as follows:

- A sufficient buffer zone must be retained or established along any natural watercourse or lake to contain all visible sediment to the first 25% of the buffer strip nearest the disturbed area. An undisturbed 25 foot buffer must be maintained along trout waters.
- The angle of cut-and-fill slopes must be no greater than that sufficient for proper stabilization. Graded slopes must be vegetated or otherwise stabilized within 21 calendar days of completion of a phase of grading.
- Off-site sedimentation must be prevented, and a ground cover sufficient to prevent erosion must be provided within 15 working days or 90 calendar days, whichever is shorter.

What are the performance standards?

Erosion and sedimentation control measures must be designed to provide protection from a rainfall event equivalent in magnitude to the 10-year peak runoff. In areas where High Quality Waters (HQW's) are a concern, the design requirement is the 25 year storm.

Runoff velocities must be controlled so that the peak runoff from the 10-year frequency storm occurring during or after construction will not damage the receiving stream channel at the discharge point. The velocity must not exceed the greater of:

- the maximum non-erosive velocity of the existing channel, based on soil texture (Table 8.05d, *Appendix 8.05*), or
- peak velocity in the channel prior to disturbance.

If neither condition can be met, then protective measures must be applied to the receiving channel.

Who is responsible for maintenance?

During construction, the person financially responsible for site development is responsible for maintenance of the erosion and sedimentation control practices installed. The landowner may also be held responsible.

After construction is complete and the surface is permanently stabilized, responsibility passes to the landowner or the person managing the land.

Who enforces the law?

The Sedimentation Pollution Control Act provides authority to the State or authorized local agencies to inspect land-disturbing activities and to prosecute violators. Citizens damaged by violations of the Act may also take action through the courts.

What are the penalties?

Civil penalties assessed by the state or authorized localities carry a maximum fine of \$5000/day per violation for each day that the site is in violation.

Criminal penalties for knowing or willful violations may be imposed to a maximum of 90 days in jail and a \$5,000 fine.

Administrative stop-work orders or injunction issued by the courts.

Who is the governing/responsible agency?

The law created the Sedimentation Control Commission to develop and administer North Carolina's sedimentation and erosion control program. This program is implemented by the DENR, Land Quality Section under the Commission's direction. Authorized local governments or agencies may adopt their own ordinances; however, local programs must be approved by the Commission and must meet or exceed the minimum standards set by the state. If their programs are approved, local governments administer and enforce them. Because these programs vary widely in content and scope, consult the administering agency to avoid violations of local ordinances.

What other activities does the state's program include?

The state assists and encourages local governments and other state agencies to develop their own erosion and sedimentation control programs. The DENR reviews local programs as needed to assure uniform enforcement of the Act.

The state develops educational and instructional materials to demonstrate methods and practices for erosion and sedimentation control.

The state has developed a set of rules pertinent to sedimentation and erosion control. These rules were adopted as Title 15A, Chapter 4 of the North Carolina Administrative Code. The complete text of these rules is provided in *Appendix 8.08 and 8.09*.

