

Agency	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Comment Period [150B-21.3A(c)(1)]	Agency Determination [150B-21.3A(c)(1)a]	Required to Implement or Conform to Federal Regulation [150B-21.3A(d1)]	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination [150B-21.3A(c)(2)]	RRC Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	Date RRC Submitted to APO	OAH Next Steps
					Select One	Select One	Select One	Select One	Select One	Select One		Select One
Example					Necessary with substantive public interest	Yes <i>If yes, include the citation to the federal law</i>	Yes	Necessary with substantive public interest	One or more comments with merit	Necessary with substantive public interest and must be readopted		Agency must readopt
Example					Necessary without substantive public interest	No	No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action		Keep in Code - Update History Note
Example					Unnecessary		<i>This will be automatically populated with "no". The agency will create a separate attached sheet for every individual rule that received comments to state the comments and agency response. See the example tabs.</i>	Unnecessary	Agency did not conduct the review	Unnecessary and should expire on the first day of the month following the consultation		Rule expired - remove from Code
Sedimentation Control Commission	15A NCAC 04A .0101	Offices of the Sedimentation Control Commission	August 1, 2012		Necessary without substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04A /0105	Definitions	August 1, 2012		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0105	Protection of Property	August 1, 1988		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0106	Basic Control Objectives	July 1, 2000		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0107	Mandatory Standards for Land-Disturbing Activity	July 1, 2000		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0108	Design and Performance Standard	November 1, 1984		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0109	Stormwater Outlet Protection	February 1, 1992		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0110	Borrow and Waste Areas	May 1, 1990		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0111	Access and Haul Roads	February 1, 1976		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0112	Operations in Lakes or Natural Watercourses	November 1, 1984		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0113	Responsibility for Maintenance	November 1, 1984		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0115	Additional Measures	November 1, 1984		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0116	Existing Uncovered Areas	October 1, 1995		Unnecessary	No						
Sedimentation Control Commission	15A NCAC 04B .0118	Approval of Plans	August 1, 2012		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0120	Inspections and Investigations	October 1, 1995		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0122	Severability Clause	November 1, 1984		Necessary without substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0124	Design Standards in Sensitive Watersheds	May 1, 1990		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0125	Buffer Zone Requirements	February 1, 1992		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0126 (a)-(d), (f)	Plan Review Fee	August 1, 2002		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0126 (e)	Plan Review Fee	August 1, 2002		Unnecessary	No						
Sedimentation Control Commission	15A NCAC 04B .0127	Plan Approval Certificate	July 1, 2000		Necessary with substantive public interest	No						

Sedimentation Control Commission	15A NCAC 04B .0128	Railroad Companies	August 1, 1995		Unnecessary	No						
Sedimentation Control Commission	15A NCAC 04B .0129	Erosion Control Plan Expiration Date	October 1, 1995		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0130	Emergencies	October 1, 1995		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0131	Self-Inspections	October 1, 2010		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04B .0132	Design Standards for the Upper Neuse River Basin	February 1, 2012		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04C .0103	Who May Assess	November 1, 1984		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04C .0106	Criteria	November 1, 1984		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04C .0107	Procedures: Notices	April 1, 2001		Necessary with substantive public interest	No						
Control Commission	15A NCAC 04C .0108	Requests for Administrative Hearing	October 1, 1995		Necessary with substantive public interest	No						
Control Commission	15A NCAC 04C .0109	Tender of Payment	October 5, 1980		Unnecessary	No						
Sedimentation Control Commission	15A NCAC 04C .0110	Administrative Hearing	October 1, 1995		Necessary without substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04C .0111	Further Remedies	February 1, 1976		Necessary without substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04D .0102	Model Ordinance	October 1, 1995		Necessary with substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04E .0101	General Purpose	November 1, 1984		Necessary without substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04E .0102	Definitions	August 1, 2012		Necessary without substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04E .0104	Copies of Rules: Inspection	August 1, 1988		Necessary without substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04E .0201	Petition for Rulemaking Hearings	November 1, 1984		Necessary without substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04E .0203	Disposition of Petitions	August 1, 1988		Necessary without substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04E .0403	Written Submissions	June 5, 1981		Necessary without substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04E .0405	Statement of Reasons for Decision	March 14, 1980		Necessary without substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04E .0406	Record of Proceedings	August 1, 1988		Necessary without substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04E .0501	Subjects of Declaratory Rulings	March 14, 1980		Necessary without substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04E .0502	Submission of Request for Ruling	March 14, 1980		Necessary without substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04E .0503	Disposition of Requests	August 1, 1988		Necessary without substantive public interest	No						
Sedimentation Control Commission	15A NCAC 04E .0504	Record of Decision	March 14, 1980		Necessary without substantive public interest	No						



North Carolina Department of Environment and Natural Resources
Division of Energy, Mineral, and Land Resources

Tracy E. Davis, PE, CPM
Director

Pat McCrory, Governor
John E. Skvarla, III, Secretary

December 16, 2013

MEMORANDUM

To: Toby Vinson, PE
Chief Engineer

From: Gray Hauser, PE
State Sedimentation Specialist

Subject: Rules Review Specifications

The following is an explanation as to why specific portions of the administration code have been labeled unnecessary.

Rule:

15A NCAC 04B .0116 EXISTING UNCOVERED AREAS

- (a) All uncovered areas which:
- (1) existed on the effective date of these Rules;
 - (2) resulted from land disturbing activity;
 - (3) exceed one acre;
 - (4) are experiencing continued accelerated erosion; and
 - (5) are causing off-site damage from sedimentation,

shall be provided with ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.

(b) The commission or local government shall serve a notice to comply with the provisions of G.S. 113A-50 et. seq. or any ordinance, rule or order adopted or issued pursuant to G.S. 113A-50 et. seq. by the Commission or by a local government upon the landowner or other person in possession or control of the land by any means authorized under G.S. 1A-1, Rule 4. The notice shall state the measures needed and the time allowed for compliance. The commission or local government issuing the notice shall consider the economic feasibility, technological expertise and quantity of work required, and shall establish reasonable time limits for compliance.

(c) State agency erosion and sedimentation control programs submitted to the commission for delegation of authority to administer such programs shall contain provisions for the treatment of

existing exposed areas. Such provisions shall consider the economic feasibility, existing technology, and quantity of work required.

(d) This Rule shall not require ground cover on cleared land forming the future basin of a planned reservoir.

Explanation:

This rule was written to cover areas that predated the sedimentation pollution control act. Since the act was 1973 this part of the administrative code is unnecessary.

Rule:

15A NCAC 04B .0126 (e) PLAN REVIEW FEE

(e) The nonrefundable plan review processing fee shall be fifty dollars (\$50.00) for each acre or part of any acre of disturbed land.

Explanation:

This rule has been superseded by the general statutes and is unnecessary.

Rule:

15A NCAC 04B .0128 RAILROAD COMPANIES

(a) The Commission recognizes that under the Federal Railroad Safety Act of 1970 (FRSA), 45 U.S.C. 421 et seq., as interpreted by federal administrative rules and court decisions, existing railroad roadbeds comprise a zone of federal preeminence within which federal law takes precedence over the Act [the SPCA].

(b) While the specific definition of this zone of federal preeminence is a question of federal law and regulation, in general the zone of federal preeminence extends outward from the center of the railroad roadbed to and including drainage ditches and spoil banks on either side of the roadbed.

(c) In the event of a derailment, washout, or other emergency condition which requires immediate action to protect public safety, the zone of federal preeminence temporarily expands, for the duration of the emergency condition, to encompass areas adjacent to the roadbed within which emergency repairs are undertaken pursuant to the FRSA and Federal Railroad Administration rules.

(d) The Act and rules do not apply to activities conducted within the zone of federal preeminence. The Act and rules apply to all other activities conducted by railroad companies.

Railroad companies shall take all reasonable measures that are consistent with the requirements of federal law to control sedimentation originating in the zone of federal preeminence.

(e) A railroad company's failure to comply with a requirement of the Act or rules in order to avoid creating a safety hazard or to avoid noncompliance with a federal safety requirement is not a knowing or willful violation of the Act or rules.

(f) The Commission will provide advice and technical assistance to railroad companies in the development and implementation of voluntary best management practices to reduce environmental impacts that may otherwise result from activities conducted within the zone of federal preeminence.

Explanation:

This rule has been superseded by federal law and is unnecessary.

Rule:

15A NCAC 04C .0109 TENDER OF PAYMENT

The director shall accept and acknowledge all tenders of payment on behalf of the secretary.

Explanation:

This rule is unnecessary because the Attorney General's office handles the collection of civil penalties.