

1 15A NCAC 02H .1005 is amended without prior notice or hearing to correct typographical errors as follows:

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3 **15A NCAC 02H .1005 STORMWATER REQUIREMENTS: COASTAL COUNTIES**

4 (a) Requirements for Certain Nonresidential and Residential Development in the Coastal Counties. All
5 nonresidential development activities that occur within the Coastal Counties that will add more than 10,000 square
6 feet of built upon area or that require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a
7 CAMA Major Development Permit, pursuant to G.S. 113A-118 and all residential development activities within the
8 Coastal Counties that require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a CAMA
9 Major Development Permit, pursuant to G.S. 113A-118 shall manage stormwater runoff as provided in Items (1),
10 (2), and (3) below. A development activity or project requires a Sedimentation and Erosion Control Plan if the
11 activity or project disturbs one acre or more of land, including an activity or project that disturbs less than one acre
12 of land that is part of a larger common plan of development. Whether an activity or project that disturbs less than
13 one acre of land is part of a larger common plan of development shall be determined in a manner consistent with the
14 memorandum referenced as "Guidance Interpreting Phase 2 Stormwater Requirements" from the Director of the
15 DWQ of the DENR to Interested Parties dated 24 July 2006.

16 (1) Development Near Outstanding Resource Waters (ORW). Development activities within the
17 Coastal Counties and located within 575 feet of the mean high waterline of areas designated by
18 the Commission as Outstanding Resource Waters (ORW) shall meet the requirements of Rule
19 .1007 of the Section and shall be permitted as follows:

20 (A) Low Density Option. Development shall be permitted pursuant to Rule .1003(d)(1) of
21 this Section if the development meets all of the following requirements:

22 (i) The development has a built upon area of 12 percent or less. A development
23 project with an overall density at or below the low density threshold, but
24 containing areas with a density greater than the overall project density, shall be
25 considered low density as long as the project meets or exceeds the
26 requirements for low density development and locates the higher density
27 development in upland areas and away from surface waters and drainageways
28 to the maximum extent practicable.

29 (ii) Stormwater runoff from the development is transported primarily by vegetated
30 conveyances. The conveyance system shall not include a stormwater collection
31 system as defined in Rule .1002 of this Section.

32 (iii) The development contains a vegetative buffer in accordance with Paragraph (e)
33 of this Rule.

34 (B) High Density Option. Development shall be permitted pursuant to Rule .1003(d)(2) of
35 this Section if the development meets all of the following requirements:

36 (i) The development has a built upon area of greater than 12 percent.

- 1 (ii) The development has no direct outlet channels or pipes to Class SA waters
 2 unless permitted in accordance with 15A NCAC 02H .0126.
- 3 (iii) The development utilizes control systems that are any combination of
 4 infiltration systems, bioretention systems, constructed stormwater wetlands,
 5 sand filters, rain barrels, cisterns, rain gardens or alternative low impact
 6 development (LID) stormwater management systems designed in accordance
 7 with Rule .1008 of this Section to control and treat the greater of, runoff from
 8 all surfaces generated by one and one-half inches of rainfall, or the difference
 9 in the stormwater runoff from all surfaces from the predevelopment and
 10 postdevelopment conditions for a one-year, 24-hour storm. Wet detention
 11 ponds may be used as a stormwater control system to meet the requirements of
 12 this Subparagraph (1)(B)(iii), provided that the stormwater control system fully
 13 complies with the requirements of Subparagraph (1)(B). If a wet detention
 14 pond is used within one-half mile of Class SA waters, installation of a
 15 stormwater best management practice in series with the wet detention pond
 16 shall be required to treat the discharge from the wet detention pond.
 17 Alternatives as described in Rule .1008(h) of this Section may also be
 18 approved if they meet the requirements of Subparagraph (1)(B).
- 19 (iv) Stormwater runoff from the development that is in excess of the design volume
 20 must flow overland through a vegetative filter designed in accordance with
 21 Rule .1008 of this Section with a minimum length of 50 feet measured from
 22 mean high water of Class SA waters.
- 23 (v) The development contains a vegetative buffer in accordance with Paragraph (e)
 24 of this Rule.
- 25 (C) Stormwater Discharges Prohibited. All development activities, including both low and
 26 high density projects, shall prohibit new points of stormwater discharge to Class SA
 27 waters or an increase in the volume of stormwater flow through conveyances or increase
 28 in capacity of conveyances of existing stormwater conveyance systems that drain to
 29 Class SA waters. Any modification or redesign of a stormwater conveyance system
 30 within the contributing drainage basin must not increase the net amount or rate of
 31 stormwater discharge through existing outfalls to Class SA waters. The following shall
 32 not be considered a direct point of stormwater discharge:
- 33 (i) Infiltration of the stormwater runoff from the design storm as described in
 34 Subparagraph (1)(B)(iii).
- 35 (ii) Diffuse flow of stormwater at a non-erosive velocity to a vegetated buffer or
 36 other natural area, that is capable of providing effective infiltration of the
 37 runoff from the design storm as described in Subparagraph (1)(B)(iii).

- 1 Notwithstanding the other requirements of this Rule, the infiltration mandated
 2 in this Subparagraph (1)(C)(ii) does not require a minimum separation from the
 3 seasonal high-water table.
- 4 (iii) The discharge from a wet detention pond that is treated by a secondary
 5 stormwater best management practice, provided that both the wet detention
 6 pond and the secondary stormwater best management practice meet the
 7 requirements of Subparagraph (1)(C).
- 8 (D) Limitation on the Density of Development. Development shall be limited to a built upon
 9 area of 25 percent or less.
- 10 (2) Development Near Class SA Waters. Development activities within one-half mile of and draining
 11 to those waters classified by the Commission as Class SA waters or within one-half mile of waters
 12 classified by the Commission as Class SA waters and draining to unnamed freshwater tributaries
 13 to Class SA waters shall meet the requirements of Subparagraphs (1)(A), (B), and (C). The extent
 14 of Class SA waters is limited to those waters that are determined to be at least an intermittent
 15 stream based on a site stream determination made in accordance with the procedures that are
 16 delineated in the Division's "Identification Methods for the Origin of Intermittent and Perennial
 17 Streams" prepared pursuant to Session Law 2001-404.
- 18 (3) Other Coastal Development. Development activities within the Coastal Counties except those
 19 areas described in Items (1) and (2) of this Paragraph shall meet all of the following requirements:
- 20 (A) Low-Density Option. Development shall be permitted pursuant to Rule .1003(d)(1) of
 21 this Section if the development meets all of the following requirements:
- 22 (i) The development has a built upon area of 24 percent or less. A development
 23 project with an overall density at or below the low-density threshold, but
 24 containing areas with a density greater than the overall project density, shall be
 25 considered low density as long as the project meets or exceeds the
 26 requirements for low-density development and locates the higher density in
 27 upland areas and away from surface waters and drainageways to the maximum
 28 extent practicable.
- 29 (ii) Stormwater runoff from the development is transported primarily by vegetated
 30 conveyances. The conveyance system shall not include a stormwater collection
 31 system as defined in Rule .1002 of this Section.
- 32 (iii) The development contains a vegetative buffer in accordance with Paragraph (e)
 33 of this Rule.
- 34 (B) High-Density Option. Higher density developments shall be permitted pursuant to Rule
 35 .1003(d)(2) of this Section if the development meets all of the following requirements:
- 36 (i) The development has a built upon area of greater than 24 percent.

- 1 (ii) The development uses control systems that are any combination of infiltration
- 2 systems, wet detention ponds, bioretention systems, constructed stormwater
- 3 wetlands, sand filters, rain barrels, cisterns, rain gardens or alternative
- 4 stormwater management systems designed in accordance with Rule .1008 of
- 5 this Section.
- 6 (iii) Control systems must be designed to store, control, and treat the stormwater
- 7 runoff from all surfaces generated by one and one-half inch of rainfall.
- 8 (iv) The development contains a vegetative buffer in accordance with Paragraph (e)
- 9 of this Rule.

10 (b) Requirements for Limited Residential Development in Coastal Counties. For residential development activities
 11 within the 20 Coastal Counties that are located within one-half mile and draining to Class SA waters, that have a
 12 built upon area greater than 12 percent, that will add more than 10,000 square feet of built upon area, and that does
 13 not require a Sedimentation and Erosion Control Plan, pursuant to G.S. 113A-57 or a CAMA Major Development
 14 Permit, pursuant to G.S. 113A-118, a one-time, nonrenewable stormwater management permit shall be obtained. The
 15 permit shall require recorded restrictions or protective covenants to be recorded on the property in the Office of the
 16 Register of Deeds in the county where the property is located prior to the issuance of a certificate of occupancy in
 17 order to ensure that the plans and specifications approved in the permit are maintained. Under this permit,
 18 stormwater runoff shall be managed using any one or combination of the following practices:

- 19 (1) Install rain cisterns or rain barrels designed to collect all rooftop runoff from the first one and
- 20 one-half inches of rain. Rain barrels and cisterns shall be installed in such a manner as to facilitate
- 21 the reuse of the collected rain water on site and shall be installed in such a manner that any
- 22 overflow from these devices is directed to a vegetated area in a diffuse flow. Construct all
- 23 uncovered driveways, uncovered parking areas, uncovered walkways, and uncovered patios out of
- 24 permeable pavement or other pervious materials.
- 25 (2) Direct rooftop runoff from the first one and one-half inches of rain to an appropriately sized and
- 26 designed rain garden. Construct all uncovered driveways, uncovered parking areas, uncovered
- 27 walkways, and uncovered patios out of permeable pavement or other pervious materials.
- 28 (3) Install any other stormwater best management practice that meets the requirements of Rule .1008
- 29 of this Section to control and treat the stormwater runoff from all built upon areas of the site from
- 30 the first one and one-half inches of rain.

31 (c) Requirements for Structural Stormwater Controls. Structural stormwater controls required under this Rule shall
 32 meet all of the following requirements:

- 33 (1) Remove an 85 percent average annual amount of Total Suspended Solids.
- 34 (2) For detention ponds, draw down the treatment volume no faster than 48 hours, but no slower than
- 35 120 hours.
- 36 (3) Discharge the storage volume at a rate equal to or less than the predevelopment discharge rate for
- 37 the one-year, 24-hour storm.

1 (4) Meet the General Engineering Design Criteria set forth in Rule .1008(c) of this Section.

2 (5) For structural stormwater controls that require separation from the seasonal high water table, a
3 minimum separation of two feet is required. Where a separation of two feet from the seasonal high
4 water table is not practicable, the Division may grant relief from the separation requirement
5 pursuant to the Alternative Design Criteria set out in Rule .1008(h) of this Section. No minimum
6 separation from the seasonal high water table is required for a secondary stormwater best
7 management practice that is used in a series with another stormwater best management practice.

8 (d) Wetlands. Developments regulated by this Rule that have wetlands inside of, or adjacent to, the development
9 must meet the following requirements:

10 (1) Areas defined as Coastal Wetlands under 15A NCAC 07H .0205, as measured landward from the
11 normal high waterline, shall not be included in the overall project area to calculate impervious
12 surface density. Wetlands that are not regulated as coastal wetlands pursuant to 15A NCAC 07H
13 .0205 and that are located landward of the normal high waterline may be included in the overall
14 project area to calculate impervious surface density.

15 (2) Stormwater runoff from built upon areas that is directed to flow through any wetlands shall flow
16 into and through these wetlands at a non-erosive velocity.

17 (e) Vegetative Buffer. Developments permitted under Paragraph (a) shall contain a 50 foot wide vegetative buffer,
18 as defined in Rule .1002(22) of this Section, for new development activities and a 30 foot wide vegetative buffer for
19 redevelopment activities. The width of a buffer is measured horizontally from the normal pool elevation of
20 impounded structures, from the bank of each side of streams or rivers, and from the mean high waterline of tidal
21 waters, perpendicular to the shoreline. The vegetative buffer may be cleared or graded, but must be planted with and
22 maintained in grass or any other vegetative or plant material. Furthermore, stormwater control best management
23 practices (BMPs), or stormwater control structures, with the exception of wet detention ponds, may be located within
24 this vegetative buffer. The Division may, on a case-by-case basis, grant a minor variance from the vegetative buffer
25 requirements of this section pursuant to the procedures set out in 15A NCAC 02B .0233(9)(b). Vegetative buffers
26 and filters required by this section and any other buffers or filters required by State water quality or coastal
27 management rules or local government requirements may be met concurrently and may contain, in whole or in part,
28 coastal, isolated, or 404 jurisdictional wetlands that are located landward of the normal waterline.

29 (f) Exemptions From Vegetative Buffer Requirements. The following activities are exempt from the vegetative
30 buffer requirements of Paragraph (e) of this Rule:

31 (1) Development in urban waterfronts that meets the requirements of 15A NCAC 07H .0209(g),

32 (2) Development in a new urban waterfront area that meets the requirements of S.L. 2004-117,

33 (3) Those activities listed in 15A NCAC 07H .0209(d)(10)(A) through 15A NCAC 07H
34 .0209(d)(10)(H),

35 (4) Development of upland marinas that have received or are required to secure a CAMA Major
36 Development Permit.

1 (g) Compliance with Other Rules. In addition to the requirements specified in this section, activities regulated under
 2 this section must also comply with any requirements of any other applicable law or rule.

3 (h) Exclusions. The amended requirements of this Rule shall not apply to any of the following:

4 (1) Activities of the North Carolina Department of Transportation that are regulated in accordance
 5 with the provisions of the Department's National Pollutant Discharge Elimination System
 6 (NPDES) Stormwater Permit.

7 (2) Development activities that are conducted pursuant to and consistent with one of the following
 8 authorizations, or any timely renewal thereof, shall be regulated by those provisions and
 9 requirements of this Rule that were effective at the time of the original issuance of the following
 10 authorizations:

11 (A) State Stormwater Permit issued under the provisions of this Rule.

12 (B) Stormwater Certification issued pursuant to Rule .1000 of this Section prior to 1
 13 December 1995.

14 (C) A CAMA Major Development Permit.

15 (D) 401 Certification that contains an approved Stormwater Management Plan.

16 (E) A building permit pursuant to G.S. 153A-357 or G.S. 160A-417.

17 (F) A site-specific development plan as defined by G.S. 153A-344.1(b)(5) and
 18 G.S. 160A-385.1(b)(5).

19 (G) A phased development plan approved pursuant to G.S. 153A-344.1 or G.S. 160A-385.1
 20 that shows:

21 (i) For the initial or first phase of development, the type and intensity of use for a
 22 specific parcel or parcels, including at a minimum, the boundaries of the
 23 project and a subdivision plan that has been approved pursuant to
 24 G.S. 153A-330 through G.S. 153A-335 or G.S. 160A-371 through
 25 G.S. 160A-376.

26 (ii) For any subsequent phase of development, sufficient detail so that
 27 implementation of the requirements of this section to that phase of development
 28 would require a material change in that phase of the plan.

29 ~~(iii) A vested right to the development pursuant to common law.~~

30 ~~(H)~~ A vested right to the development pursuant to common law.

31 ~~(H)(I)~~ Redevelopment activities that result in no net increase in built upon area and provide
 32 stormwater control equal to the previous development.

33 ~~(H)(J)~~ Development activities for which a complete Stormwater Permit Application has been
 34 accepted by the Division prior to October 1, 2008, shall be regulated by the provisions
 35 and requirements of this Rule that were effective at the time that this application was
 36 accepted as complete by the Division. For purposes of this Rule, a Stormwater Permit

1 Application is deemed accepted as complete by the Division when the application is
2 assigned a permit number in the Division's Basinwide Information Management System.

3 ~~(J)~~(K) Development activities for which only a minor modification of a State Stormwater
4 Permit is required shall be regulated by the provisions and requirements of this Rule that
5 were effective at the time of the original issuance of the State Stormwater Permit. For
6 purposes of this Rule, a minor modification of a State Stormwater Permit is defined as a
7 modification that does not increase the net area of built upon area within the project site
8 or does not increase the overall size of the stormwater controls that have been previously
9 approved for that development activity.

10 ~~(K)~~(L) Municipalities designated as a National Pollutant Discharge Elimination System
11 (NPDES) Phase 2 municipality located within the 20 Coastal Counties until such time as
12 the NPDES Phase 2 Stormwater Permit expires and is subject to renewal. Upon renewal
13 of the NPDES Phase 2 Stormwater Permits for municipalities located within the 20
14 Coastal Counties, the Department shall review the permits to determine whether the
15 permits should be amended to include the provisions of this Rule.

16

17 *History Note:* Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a);
18 Eff. September 1, 1995;
19 This Rule is superseded by S.L. 2008-211 Eff. October 1, 2008;
20 Amended Eff. March 1, 2013; July 3, 2012.