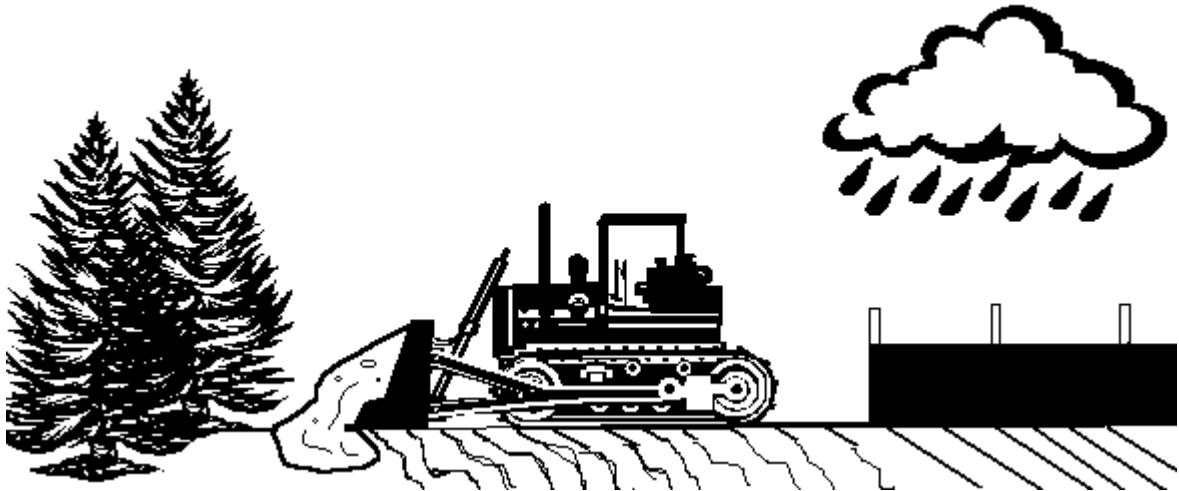


Erosion & Sediment Control

Designer Packet



Land Quality Section

Packet Contents

What is Erosion and Sedimentation

**Simplified Overview of the Sedimentation Pollution Control Act
of 1973**

**The Sediment Pollution Control Act of 1973: Myths and
Misconceptions**

Plan Requirements for Erosion and Sedimentation Plans

Erosion and Sediment Control Plan Application Documents

- **Plan Checklist for Designers**
- **Financial Responsibility Ownership**
- **Fee Schedule**

Brochures

- **Sedimentation: Soil Erosion Facts**
- **3 Reasons Why You Should Control Erosion On Your
Construction Site**
- **Controlling Erosion and Sedimentation on Single
Family Home Construction Sites**

Local Program Contact Information

NC DEQ – DEMLR – Regional Offices Contact Information

Appendix:

- **Sedimentation Pollution Control Act of 1973**
- **NC Administrative Code Title 15A Chapter 4**



WHAT IS EROSION AND SEDIMENTATION?

Erosion is the detachment and movement of soil particles by wind, water, and gravity. Natural erosion (geologic erosion) is a process that occurs slowly over millions of years. Geologic erosion has shaped the landscape around us.

Accelerated erosion is NOT a natural process. Accelerated erosion occurs when more soil than usual is detached and moved by water or some other force and is caused by land disturbing activities such as the construction of roads and buildings, commercial forestry, agriculture, and surface mining. These activities leave the land free of vegetation. Accelerated erosion strips the land of its topsoil, decreasing soil productivity and causing sedimentation in our lakes and rivers.

Sedimentation is the process by which eroded soil is deposited into our lakes and streams. Sediment can accumulate in the bottom of lakes, streams, estuaries, and nursery areas. It can smother fish habitats vital to reproduction and destroy aquatic insects that fish feed upon.

Sediment fills our rivers, lakes, and streams, decreasing their storage volume and increasing the frequency of floods and the damage caused by flooding. Sediment in our waters increases the costs of power production; this cost is passed on to you and me.

Sediment suspended in the water also increases the cost of treating municipal drinking water supplies. Sediment restricts the amount of sunlight reaching aquatic plants, reducing the amount of dissolved oxygen in our waters. Sediment degrades the beauty of our waters by increasing the cloudiness of the water.



What Can We Do About it?

Accelerated **erosion and sedimentation** primarily result from agriculture, forestry, and construction practices. These activities clear the land of vegetation and expose the soil surface so that it is more easily eroded. However, we all benefit from these three activities. How can we protect our land, rivers, lakes, and streams from the damage caused by erosion and sedimentation?

We can control erosion and sedimentation from construction, forestry, and agriculture by using Best Management Practices (BMPs). BMPs are practices that either prevent erosion from happening or keep eroded sediment from entering rivers, lakes, and streams. By using best management practices, we can greatly reduce the amount of sediment entering our rivers, lakes, and streams. BMPs allow us to continue activities such as farming, forestry, and construction while protecting the quality of the water around us.

What Are Some Examples of Best Management Practices?

- Agriculture:
- No till or conservation tillage practices.
 - Leaving crop residue on fallow fields.
 - Strip cropping, contour farming, and use of terraces.
 - Taking land on steep topography out of production.
 - Use of natural buffer zones around rivers, lakes, and streams.
- Forestry:
- Natural buffer areas around rivers, lakes and streams
 - Replant vegetation on disturbed areas
 - Mulching
 - Control runoff on forestry roads and other affected areas
- Construction:
- Use of temporary ground cover
 - Leave natural buffer zones
 - Limit time of exposure
 - Use of phased grading plans
 - Control rates of runoff
 - Use devices such as sediment basins, rock dams, and sediment traps

What Does the Law Say?

Sediment Control in North Carolina is governed by the Sedimentation Pollution Control Act of 1973. The Act requires anyone involved in a land disturbing activity of one acre or more to submit an erosion and sediment control plan to the Land Quality Section of the North Carolina Department of Environmental Quality or the appropriate delegated local program.

The erosion and sediment control plan must be submitted to the Land Quality Section at least 30 days before the land disturbing activity begins and must be approved before beginning the activity. The Act exempts land disturbing activities for forestry if the logging activity follows forestry BMPs adopted by the Department of Environmental Quality. Mine sites permitted under the Mining Act of 1971 are exempt since an erosion and sediment control plan is required by Mining permits. Agriculture also is exempt under the Act.

The Sedimentation Pollution Control Act has few limitations as to what goes into a plan. The approved plan must control sediment and keep it from leaving the site. This allows for effective technical innovations in erosion and sediment control and may also help lower the cost of erosion and sediment control.

The Act has 5 mandatory standards.

1. Buffer zones along streams or rivers must be sufficient to control visible siltation within the first 25% of the buffer zone closest to the land disturbing activity. There must also be a 25-foot minimum width buffer along trout waters.
2. Groundcover must be established on exposed slopes within 21 calendar days after completion of any phase of grading.
3. Permanent groundcover must be established within 15 working days or 90 calendar days of completion of the project, whichever is shorter, and measures must be provided to keep sediment on site.
4. Any land disturbing activity of one acre or more must have an approved erosion and sediment control plan.
5. Any land disturbing activity must be done in accordance with the approved erosion and sediment control plan.

The Full Rules and Regulations

[Sedimentation Pollution Control Act of 1973](#)
[North Carolina General Statutes Chapter 113A Article 4](#)

The Sedimentation Pollution Control Act (SPCA) is the enabling legislation that gives authority to the Sedimentation Control Commission (SCC) and the Land Quality Section. It 'sets the stage'.

[Sedimentation Control](#)
[Chapter 4 of Title 15A of the North Carolina Administrative Code \(T15A.04\)](#)

The NC Administrative Code (Code) provides the administrative overview of how the SCC and Land Quality Section enforce the Act. It provides the 'how to'.

Glossary of Terms

- Accelerated Erosion:** Erosion that occurs more rapidly than natural geological erosion: the result of farming, forestry, and land grading for construction.
- BMPs:** Best Management Practices: practices or measures that allow us to protect water quality from pollutants such as sediment while still continuing activities such as construction, forestry, and agriculture.
- Buffer Zone:** Strips of natural areas such as forest or grasses between a body of water and a land disturbing activity such as agriculture, construction, or forestry.
- Dissolved Oxygen:** The amount of oxygen dissolved in a specific volume of water. Sufficient amounts of dissolved oxygen are important to the survival of fish and other aquatic organisms. The turbidity caused by sediment suspended in the water restrict sunlight to aquatic plants thereby reducing the dissolved oxygen in the water.

Erosion:	Detachment and movement of soil or rock by water, wind, ice, or gravity.
Estuary:	A body of water where a freshwater river or stream empties into the sea. Estuaries are important breeding grounds for many types of fish but are damaged by the accumulation of sediments due to accelerated erosion.
Geological Erosion:	Wearing away of the earth's surface by water, ice, or other natural agents under environmental conditions of climate, vegetation, and topography undisturbed by man.
Non-Point Source Pollution:	Pollution that is washed into rivers, lakes, and streams from runoff during rainfall events. Sediment is the largest non-point source pollutant.
Point Source Pollution:	Water pollution that is introduced into rivers, lakes, or streams directly from a single source, such as a pipe.
Pollutant:	Any substance that reduces the quality of biological habitats. Sediment is a pollutant of water.
Pollution:	Any physical, chemical, or biological change that adversely affects the health, survival, or activities of living organisms or alters the environment in undesirable ways.
Sediment:	Solid particulate matter, mineral or organic, that has been or is being moved by water, air, gravity, or ice from its origin. Sediment typically consists of clay, silt or sand-sized particles.
Sedimentation:	The process by which soils that have been washed into rivers, lakes, and streams, or onto the land surface are deposited.
Topsoil:	The upper layer of soil. This layer holds most of a soil's nutrients and is the most productive layer of soil. Topsoil is the layer of soil that is usually lost due to accelerated erosion.
Turbidity:	The "cloudiness" or discoloration of a body of water. Turbidity is caused by the suspension of solid particles such as clays in rivers, lakes, and streams.

- Vegetation:** The plants that cover the land surface. Vegetation helps protect soil from erosion by preventing the direct effect of rainfall on soil and holding onto soil with its roots.
- Watershed:** The land area that drains into a stream, river, or lake. A large river may have a watershed that encompasses many smaller watersheds.



Simplified Overview of the Sedimentation Pollution Control Act of 1973

PURPOSE

The objective of the Sedimentation Pollution Control Act of 1973 is to protect North Carolina land and natural watercourses from erosion and sedimentation impacts. The primary purposes are to: (1) keep sediment from entering our natural watercourses e.g. streams, rivers, lakes, swamps, and marshes; and (2) keep sediment from washing onto adjacent property.

MANDATORY STANDARDS

Buffer Zone Requirements

If you are conducting a land-disturbing activity, such as construction, near a lake or natural watercourse, visible siltation should be kept in the 25% of the buffer zone nearest the land-disturbing activity. For example, land disturbance taking place 20 feet from a stream would be in compliance if the sediment from the construction site travels less than 5 feet into the buffer. If the stream is classified as a Trout Stream, the same requirement applies, but the undisturbed buffer must be at least 25 feet wide.

Slope Stabilization Requirements

Any slope generated or disturbed during a land-disturbing activity may not be so steep that it is impossible to prevent erosion from them by providing a natural groundcover (such as grass) or other adequate erosion-control devices. Groundcover or other erosion-control devices on slopes must be in place within 21 calendar days of completion of any phase of grading. Example: A slope generated during highway construction is not in compliance if it has deep, eroded gullies in it.

Groundcover Requirements

Groundcover may be plants, mulches, rocks, etc. that hold the soil in place. Grass is a common groundcover. Whenever land is disturbed, permanent groundcover must be in place within 15 working days or 90 calendar days, whichever is shorter.

Erosion and Sediment Control Plan Requirements

If more than one acre of land on a tract is to be disturbed, an erosion and sediment control plan is required. Erosion and sedimentation control plan application approvals are issued by Land Quality Section Regional Offices or local government erosion and sedimentation control programs.

Adherence to Erosion and Sediment Control Plan

The land disturbing activity must be done in accordance with the approved erosion and sediment control plan.

EXEMPTIONS

In general, agricultural lands used for the production of plants and animals useful to man are exempt from the Act. As long as best management practices in the Forest Practice Guidelines Related to Water Quality are followed, activities undertaken on forestland for the production and harvesting of timber are exempt. Lands used for mining are also exempt as they are subject to the Mining Act regulations. In emergency situations that threaten human lives, land may be disturbed without an immediate erosion and sedimentation control plan approval.

ENFORCEMENT

Failure to have an approved plan before the land disturbing activity can result in a fine of up to \$5000 per day per violation. Failure to comply with the Sedimentation Pollution Control Act can result in fines up to \$5000 per day per violation for each day of the violation, the issuance of a stop-work order, injunctive relief, a restoration order, or possible criminal prosecutions.

For additional information reference the following:

- The Sedimentation Pollution Control Act of 1973 ([GS113A Article 4](#))
- The NC Department of Environmental Quality Division of Energy, Mineral and Land Resources website: [NC DEQ DEMLR](#)
- Contact the appropriate NCDEQ/DEMLR/Land Quality Section office: [Regional Offices](#)

This summary was created for educational purposes only, and does not preempt the law.

Written by Mary Russell Robertson & Janet Paith

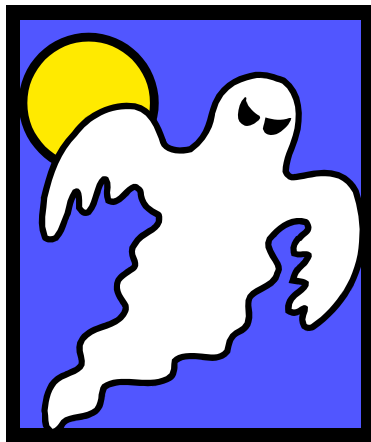
Revised: September 2018

The Sedimentation Pollution Control Act of 1973 Myths And Misconceptions



- ☠ Land Quality is EPA
- ☠ The Sediment Pollution Control Act (SPCA) Regulates Runoff to Prevent Flooding, etc Downstream.
- ☠ To comply with the SPCA all Runoff must meet Water Quality Requirements of 50 NTU
- ☠ The SPCA does not apply to sites < 1 acre
- ☠ If over an acre is to be disturbed, I can go ahead and disturb up to an acre while the plan is being approved
- ☠ If the project area is wooded, I can timber it before development without a plan, as long as I do not grub the site.
- ☠ Single family home lots are exempt from the SPCA
- ☠ A notice of violation must require a time period to comply before I can be assessed civil penalty
- ☠ If I do not have offsite damage, then I will not be fined
- ☠ If I am in compliance on the compliance date of a Notice of Violation, then there is no civil penalty
- ☠ If I give my contractor the approved plan, he is responsible for any fines for failing to implement the plan
- ☠ It's easier to get forgiveness for violations than permission
- ☠ If I do everything on the approved plan I will not have problems and will not be fined
- ☠ Sediment control measures "Filter" sediment

- ☠ If the site is open less than 1 year, then I can proportion the storage requirements
- ☠ If I can clean a sediment basin more frequently, then I can reduce the size of the basin
- ☠ I can improve the effectiveness of a measure by making it deeper
- ☠ Use of rock check dams in ditch lines is a good sediment control measure
- ☠ I can use temporary slope drains for permanent runoff control
- ☠ It is okay to substitute prefab silt fence for the fence with the metal stakes
- ☠ If I seed the ground then I have met the ground cover requirements of the SPCA
- ☠ A thick layer of wood mulch can be adequate
- ☠ Land Quality (or their employees) keep the penalties that are assessed
- ☠ We are building a cemetery, so we don't need a permit
- ☠ If I sell dirt from my borrow site, they say I need a mining permit
- ☠ It's a farming operation, so it's exempt from the SPCA
- ☠ It's a logging job, so it's exempt from the SPCA



Revised 9/5/12

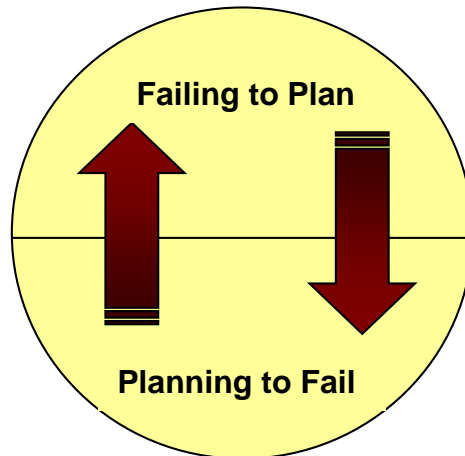


Plan Requirements For Erosion and Sedimentation Control Plans

Purpose of a Plan

- Serves as a guide
- Establishes a “blueprint”
- Allows for flexibility
- Creates a basis for communication
- Forces thought

Planning Considerations



- Design phased plans
 - Clearing and grubbing stage
 - Final grading
- Integrate E&SC installation with construction schedule
- Minimize duration of exposure
- Limit the disturbed area
- Allow for the maintenance of measures
- Capture sediment near the source

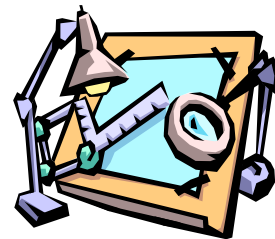
- Divert surface water runoff from undisturbed areas
- Keep runoff velocities low
 - Less than 10% increase at property lines
- Install permanent water conveyance measures early in the project

Elements of a Plan

- Brief narrative describing:
 - The purpose of the proposed development
 - The conditions of the site and adjacent areas
 - The proposed erosion and sediment control measures
- Site location or vicinity map
- Site development drawing
- Site sediment and erosion control drawing
 - Appropriate scale with topographic information to assess drainage patterns
- Specifications and drawings of practices with supporting design calculations and assumptions
- Temporary and permanent seeding specifications with soil amendments
- Construction and maintenance schedule
- Financial/ ownership form

Site Drawing

- Legend
- Topographic information
 - Coastal plain versus mountains
 - Existing and proposed contours
- Borrow and waste areas
- Topsoil stockpiles
- Construction routes within the project



- Watershed area
- Drainage ways
 - Creeks, ditches, channels
- Property lines
- Construction entrances
- Critical areas
- Easements
 - Utility easements
 - Greenways
- Erosion and sedimentation control measures



Design Criteria

- 10-year storm design
- High Quality Water (HWQ) zones
 - 25-year storm design
 - Settling efficiency of 70% of the 40-micron particle
 - Maximum disturbed area = 20 acres
- Trout water buffer zones
 - Minimum buffer = 25 feet
 - Special permit for encroachment

Types of Measures

- | | |
|---------------------------|-------------------------|
| • Temporary sediment trap | • Outlet protection |
| • Sediment basin | • Silt fence |
| • Skimmer sediment basin | • Diversions and berms |
| • Rock Dam | • Slope drains |
| • Grass lined channels | • Temporary check dam |
| • Riprap lined channels | • Gravel entrance/ exit |
| • Inlet protection | |

Temporary Sediment Trap

Design Criteria

- Store 3600 cf of storage per acre of disturbed area
- Safely pass the 10-year design storm through the outlet structure for the total drainage area
- Drainage area = 5 acres or less
- Surface area of trap = 435 sf per cfs of Q_{10} peak inflow
- Do not locate in live stream

Common Problems:

- Inadequate spillway size
- Inadequate storage size
- No plan for maintenance
- No access for maintenance
- Low point in embankment

Skimmer Sediment Basin

Design Criteria

- Store 1800 cf of storage per acre of disturbed area
- Safely pass the 10-year design storm through the outlet structure for the total drainage area
- Drainage area = 10 acres or less
- Surface area of trap = 325 sf per cfs of Q_{10} peak inflow
- Do not locate in live stream

Common Problems:

- Inadequate spillway size
- Inadequate storage size
- No plan for maintenance
- No access for maintenance
- Low point in embankment

Temporary Sediment Basin

Design Criteria

- Trash guard
- Outlet protection
- Embankment
 - Minimum freeboard = 1 foot
 - 2.5:1 or flatter side slopes
 - Non-jurisdictional under Dam Safety Law
- HQW's – design basin for 70% settling efficiency of 40-micron particle
- Dewater in 1-3 days from the surface
- Spillway system: combined spillways must pass the 10-year design storm, 25-year storm event in HQW's
 - Principal spillway – minimum capacity = 2-year design storm
 - Emergency spillway – construct in natural ground; carry the 10/25 yr. storm minus the capacity of the principal spillway
- Must provide additional erosion and sediment control measures during the installation of the facility
- Do not install in live stream

Common Problems

- Piping failure along conduit
- Erosion of spillway or embankment
- Slumping or settling of embankment from poor compaction
- Slumping failure from steep side slopes
- Erosion at pipe outlet
- No plan for maintenance
- No access for maintenance
- Sediment not properly removed
- Does not dewater from surface
- Lack of trash rack
- Spillway too high relative to top of dam

Rock Dam

Design Criteria

- Drainage area no larger than 10 acres
- Dam height less than 8 feet
- Spillway section
 - Maximum of 6 inches' flow depth with additional 1 foot for freeboard
 - Carry the 10-year design storm
- Do not install in a live stream
- Carry embankment up to a point at least 2 feet higher than the spillway
- Sediment storage area
 - Store 3600 ft³ of storage per acre of disturbed area
 - Surface area = 435 sf per cfs of Q₁₀ peak inflow
- Minimum stone size for fill:
 - Minimum d₅₀ = 12 inches
 - Provide liner under stone
- Outlet protection

Common Problems

- Failure from piping along abutments
- Erosion below dam

Grass-lined channels

Design Criteria

- Carry the peak runoff from the 10-year design storm without eroding the channel
- If the velocity exceeds 2 ft/s (for bare soil condition – not established grass) a temporary liner must be specified
 - Liner designed for the peak flow from the 2-year storm
- Side slopes generally 3 horizontal to 1 vertical or flatter

Common Problems

- Gullying or head cutting in the channel
- Erosion occurs before vegetation is established
- Ponding along channel
- Side slope caving

Riprap lined channel

Design Criteria

- Design velocity exceeds allowable velocity for grass-lined channels
- Lining thickness = 1.5 x max. stone diameter
- Install filter blanket of sand/gravel or filter fabric under riprap
- Undercut channel the depth of the riprap lining plus the filter

Common Problems

- Riprap restricts flow in channel
- Foundation not properly excavated
- Side slopes too steep
- Riprap poorly graded or placed

Inlet Protection

Design Criteria

- Limit drainage area to 1 acre
- Types:
 - Excavated
 - Hardware Cloth and Gravel
 - Block and Gravel
 - Sod
 - Rock Doughnut
 - Rock Pipe

Common Problems

- Excessive ponding
- Sediment pool area overwhelmed and enters storm drain
- Steel posts not used (Hardware cloth and gravel)
- Land slope at storm drain too steep

Outlet Protection

Design Criteria

- Designed for the 10-year design storm or the design discharge of the water conveyance structure, whichever is greater
- 0% grade
- Minimum thickness = 1.5 x max. stone diameter
- Install filter underlining of graded gravel or synthetic filter
- Construct flush with the receiving channel

Common Problems

- Riprap not extended far enough
- Foundation improperly excavated
- Appropriate filter not installed

Silt Fence

- Install in areas receiving sheet runoff, not concentrated flow
- Steel posts must be used
- Follow NC Design Manual's specifications for installation

Common Problems

- Overtopping at corners and at low points with no outlet
- Too much sediment accumulation
- Approach too steep
- Fence not adequately supported

Diversions and Berms

- Uses:
 - Prevent undisturbed drainage from entering site
 - Redirect sediment laden runoff into a basin
 - Carry runoff away from an exposed slope
 - Reduce slope length as slope breaks

Common Problems

- Steep slopes
- Berm not compacted
- Vehicles crossing
- Not constructed according to design specifications

Slope Drains

- Uses:
 - Carries stormwater over cut and fill slopes in a non-erosive manner until permanent stormwater disposal measure can be installed

Common Problems

- Failure from overtopping from inadequate pipe inlet capacity, causing erosion of slope
- Improper entrenching of the entrance
- Pipe outlet not extended beyond the toe of the slope, causing erosion of slope
- Improper compaction at the entrance of the pipe, causing the erosion

Gravel Construction Entrance/Exit

- Install at points where construction traffic enters and leaves site

Common Problems

- Pad too thin
- Pad too short
- Pad not flare

Temporary Check Dam

- Reduces erosion in a channel
- Max. drainage to dam = 0.5 acre
- Max. height of 2 feet at dam center
- Extend stone at least 1.5 feet beyond ditch banks to avoid washing

Common Problems:

- Check dams not removed
- Ponding water kills vegetation
- Erosion along abutments (end-cutting)
- Used as a sediment control



10 Things to Avoid in Plan Preparation

1. Do not use hay bales as sediment control
2. Do not specify silt fence in areas of concentrated flow
3. Do not specify rye grass in seeding mixtures
4. Do not specify riprap ditches or stream bank protection without filter fabric or stone under-layment
5. Do not specify in-stream measures as primary sediment control devices
Control sediment before entering the stream
6. Do not design storm water outlets to discharge on fill slopes
7. Do not use terms such as “as directed by the Land Quality Section” or “as conditions warrant,” etc. Specify actions to be taken on the plan
8. Do not specify cut or fill slopes steeper than 2:1 without some engineering justification concerning stability
9. Do not show sediment control measures off the property in question unless easements, contracts, etc. are submitted with the plan to show that the measures will be allowed in those locations
10. Do not rely on standardized drawings, details, and specifications. The plan must be appropriate for the unique characteristics of the site in question

Most Commonly Omitted Items in Plan Submittals

- Complete, notarized financial responsibility/ownership form
- Seeding and soil amendment rates
- Complete calculations package
- Construction schedule
- Actual locations of measures on the plan
- Location map detailed enough to locate the site
- Maintenance schedule
- Maintenance access
- Accurate scale
- Measures shown on site plan to scale



Procedure Review

- Land Quality Section's review time for new plans = **30 days** from the receipt of the plan, including the correct fee
- Land Quality Section's review time for revised plans = 15 days from the date of receipt
- Initial review for completeness (fee, FRO form, location map, design calculations)
 - Designer/developer may be called or written to request more information
- Detailed review
 - Design calculations
 - Seeding specifications
 - Feasibility of plan

Review Fee

- 1 acre = \$65.00 (rounded up to the nearest acre)
- Example:
 - Project site equals 4.34 acres
 - Rounds Up to 5-acre project
 - Fee = \$325.00 (5 acres), NOT \$260.00 (4 acres)
- Additional fees required for revised plans adding acreage (\$65/acre)

Actions Taken on Plans

- Approval
 - As is
 - With performance reservations
 - With modifications
- Disapproval
 - Land Quality Section will identify why the plan was disapproved
 - Land Quality Section will not design a plan
- Plan may be disapproved if they fail to address:
 - Critical areas
 - Limiting the time of exposure
 - Limiting the area of exposure
 - Surface water control
 - Erosion and sediment control

Major Items Considered for Plan Disapproval

1. Culverts
 - Size inappropriate
 - Inappropriate supporting calculations
 - No dissipators or dissipator design
 - Headwall - tailwall transition
2. Sediment basins
 - Needed and not shown
 - Inappropriate type basin
 - Inadequate or no supporting calculations
 - Transition to natural watercourse

3. Channels
 - Velocity problems with no liner proposed or no supporting calculations
 - Inadequate temporary or permanent liner classification
 - No calculations verifying the following:
 - 10-year design storm
 - flow quantity
 - cross-section
 - slope
 - hydraulic radius
 - Inadequate cross-drains or turn-outs into steep terrain
4. Cut and fill slopes
 - Runoff control over fill slopes inadequate or inappropriate
 - Inappropriate slope drain materials (Asphalt and/or plastic sheets)
 - Fill or cut slopes steeper than 2:1 without justification or geotechnical report
5. Vegetation
 - No specifications
 - Inappropriate specifications
6. Inappropriate design in High Quality Water zones or trout waters
7. The director can disapprove a plan if the applicant or a parent, subsidiary or other affiliate of the applicant:
 - Is under enforcement action such as an NOV
 - Has failed to pay a civil penalty
 - Has been convicted of criminal penalties under the SPCA
 - Has failed to comply with State rules or local ordinances related to erosion and sedimentation control

The Approved Plan

- A copy of the approved plan, including seeding spec's, calculations, etc., must be on-site at all times
- Letter of approval from the Land Quality Section is required to get building permits
- The plan must be modified if major changes are needed

Revised 10/5/18



North Carolina Department of Environmental Quality | Division of Energy, Mineral and Land Resources
512 North Salisbury Street | 1612 Mail Service Center | Raleigh, North Carolina 27699-1612
919.707.9200

EROSION and SEDIMENTATION CONTROL PLAN PRELIMINARY REVIEW CHECKLIST

The following items shall be incorporated with respect to specific site conditions, in an erosion & sedimentation control plan:

NPDES Construction Stormwater General Permit NCG010000

- _____ Designation on the plans where the 7 or 14 day ground stabilization requirements apply per Section II.B.2 of the permit.
- _____ Design of basins with one acre or more of drainage area for surface withdrawal as per Section II.B.4 of the permit.

LOCATION INFORMATION

- _____ Project location & labeled vicinity map (roads, streets, landmarks)
- _____ North arrow and scale
- _____ Identify River Basin.
- _____ Provide a copy of site located on applicable USGS quadrangle and NRCS Soils maps if it is in a River Basin with Riparian Buffer requirements.

GENERAL SITE FEATURES (Plan elements)

- _____ Property lines & ownership ID for adjoining properties
- _____ Existing contours (topographic lines)
- _____ Proposed contours
- _____ Limits of disturbed area (provide acreage total, delineate limits, and label). Be sure to include all access to measures, lots that will be disturbed, and utilities that may extend offsite.
- _____ Planned and existing building locations and elevations
- _____ Planned & existing road locations & elevations, including temporary access roads
- _____ Lot and/or building numbers
- _____ Hydrogeologic features: rock outcrops, seeps, springs, wetland and their limits, streams, lakes, ponds, dams, etc. (include all required local or state buffer zones and any DWQ Riparian Buffer determinations)
- _____ Easements and drainageways, particularly required for offsite affected areas. Include copies of any recorded easements and/or agreements with adjoining property owners.
- _____ Profiles of streets, utilities, ditch lines, etc.
- _____ Stockpiled topsoil or subsoil locations
- _____ If the same person conducts the land-disturbing activity & any related borrow or waste activity, the related borrow or waste activity shall constitute part of the land-disturbing activity unless the borrow or waste activity is regulated under the Mining Act of 1971, or is a landfill regulated by the Division of Waste Management. If the land-disturbing activity and any related borrow or waste activity are not conducted by the same person, they shall be considered separate land-disturbing activities and must be permitted either through the Sedimentation Pollution Control Act as a one-use borrow site or through the Mining Act.
- _____ Location and details associated with any onsite stone crushing or other processing of material excavated. If the affected area associated with excavation, processing, stockpiles and transport of such materials will comprise 1 or more acres, and materials will be leaving the development tract, a mining permit will be required.
- _____ Required Army Corps 404 permit and Water Quality 401 certification (e.g. stream disturbances over 150 linear feet)

EROSION & SEDIMENT CONTROL MEASURES (on plan)

- _____ Legend (provide appropriate symbols for all measures and reference them to the construction details)
- _____ Location of temporary measures
- _____ Location of permanent measures
- _____ Construction drawings and details for temporary and permanent measures. Show measures to scale on plan and include proposed contours where necessary. Ensure design storage requirements are maintained through all phases of construction.
- _____ Maintenance requirements for measures
- _____ Contact person responsible for maintenance

SITE DRAINAGE FEATURES

- _____ Existing and planned drainage patterns (include off-site areas that drain through project and address temporary and permanent conveyance of stormwater over graded slopes)
- _____ Method used to determine acreage of land being disturbed and drainage areas to all proposed measures (e.g. delineation map)
- _____ Size, pipe material and location of culverts and sewers
- _____ Soil information: type, special characteristics
- _____ Soil information below culvert storm outlets

- _____ Name and classification of receiving water course or name of municipal operator (only where stormwater discharges are to occur)

STORMWATER CALCULATIONS

- _____ Pre-construction runoff calculations for each outlet from the site (at peak discharge points). Be sure to provide all supporting data for the computation methods used (rainfall data for required storm events, time of concentration/storm duration, and runoff coefficients).
- _____ Design calculations for peak discharges of runoff (including the construction phase & the final runoff coefficients for the site)
- _____ Design calcs for culverts and storm sewers (include HW, TW and outlet velocities)
- _____ Discharge and velocity calculations for open channel and ditch flows (easement & rights-of-way)
- _____ Design calcs for cross sections and method of stabilization for existing and planned channels (include temporary linings). Include appropriate permissible velocity and/or shear stress data.
- _____ Design calcs and construction details for energy dissipaters below culvert and storm sewer outlets (include stone/material specs & apron dimensions). Avoid discharges on fill slopes.
- _____ Design calcs and dimension of sediment basins (note current surface area and dewatering standards as well as diversion of runoff to the basins). Be sure that all surface drains, including ditches and berms, will have positive drainage to the basins.

VEGETATIVE STABILIZATION

- _____ Area & acreage to be stabilized with vegetation
- _____ Method of soil preparation
- _____ Seed type & rates (temporary & permanent)
- _____ Fertilizer type and rates
- _____ Mulch type and rates (include mulch anchoring methods)

NOTE: Plan should include provisions for groundcover in accordance with NPDES Construction Stormwater General Permit NCG010000.

FINANCIAL RESPONSIBILITY/OWNERSHIP FORM

- _____ Completed, signed & notarized FR/O Form
- _____ Accurate application fee payable to NCDEQ (\$65.00 per acre rounded up the next acre with no ceiling amount)
- _____ Certificate of assumed name, if the owner is a partnership
- _____ Name of Registered Agent (if applicable)
- _____ Copy of the most current Deed for the site. Please make sure the deed(s) and ownership information are consistent between the plan sheets, local records and this form.
- _____ Provide latitude & longitude (in decimal degrees) at the project entrance.
- _____ Two hard-copies of the plans (some regional offices require additional plans or multiple sizes; please contact the regional coordinator prior to such submittal.)

NOTE: For the Express Permitting Option, inquire at the local Regional Office for availability. Express Reviews are performed by appointment only.

NARRATIVE AND CONSTRUCTION SEQUENCE

- _____ Narrative describing the nature & purpose of the construction activity.
- _____ Construction sequence related to erosion and sediment control (including installation of critical measures prior to the initiation of the land-disturbing activity & removal of measures after areas they serve are permanently stabilized). Address all phases of construction and necessary practices associated with temporary stream bypasses and/or crossings.
- _____ Bid specifications related only to erosion control

**FINANCIAL RESPONSIBILITY/OWNERSHIP FORM
SEDIMENTATION POLLUTION CONTROL ACT**

No person may initiate any land-disturbing activity on one or more acres as covered by the Act before this form and an acceptable erosion and sedimentation control plan have been completed and approved by the Land Quality Section, N.C. Department of Environmental Quality. (Please type or print and, if the question is not applicable or the e-mail and/or fax information unavailable, place N/A in the blank.)

Part A.

1. Project Name _____
2. Location of land-disturbing activity: County _____ City or Township _____
Highway/Street _____ Latitude _____ Longitude _____
3. Approximate date land-disturbing activity will commence: _____
4. Purpose of development (residential, commercial, industrial, institutional, etc.): _____
5. Total acreage disturbed or uncovered (including off-site borrow and waste areas): _____
6. Amount of fee enclosed: \$ _____. The application fee of \$65.00 per acre (rounded up to the next acre) is assessed without a ceiling amount (Example: a 9-acre application fee is \$585).
7. Has an erosion and sediment control plan been filed? Yes _____ No _____ Enclosed _____
8. Person to contact should erosion and sediment control issues arise during land-disturbing activity:
Name _____ E-mail Address _____
Telephone _____ Cell # _____ Fax # _____
9. Landowner(s) of Record (attach accompanied page to list additional owners):

Name	Telephone	Fax Number
Current Mailing Address	Current Street Address	
City	State	Zip
City	State	Zip
10. Deed Book No. _____ Page No. _____ Provide a copy of the most current deed.

Part B.

1. Company (ies) or firm(s) who are financially responsible for the land-disturbing activity (Provide a comprehensive list of all responsible parties on an attached sheet.) *If the company or firm is a sole proprietorship the name of the owner or manager may be listed as the financially responsible party.*

Name	E-mail Address
Current Mailing Address	Current Street Address
City	State
Zip	Zip
Telephone	Fax Number

2. (a) If the Financially Responsible Party is not a resident of North Carolina, give name and street address of the designated North Carolina Agent:

_____			_____		
Name			E-mail Address		
_____			_____		
Current Mailing Address			Current Street Address		
_____			_____		
City	State	Zip	City	State	Zip
Telephone_____			Fax Number_____		

(b) If the Financially Responsible Party is a Partnership or other person engaging in business under an assumed name, **attach a copy of the Certificate of Assumed Name.** If the Financially Responsible Party is a Corporation, give name and street address of the Registered Agent:

_____			_____		
Name of Registered Agent			E-mail Address		
_____			_____		
Current Mailing Address			Current Street Address		
_____			_____		
City	State	Zip	City	State	Zip
Telephone_____			Fax Number_____		

The above information is true and correct to the best of my knowledge and belief and was provided by me under oath (This form must be signed by the Financially Responsible Person if an individual or his attorney-in-fact, or if not an individual, by an officer, director, partner, or registered agent with the authority to execute instruments for the Financially Responsible Person). I agree to provide corrected information should there be any change in the information provided herein.

Type or print name

Title or Authority

Signature

Date

I, _____, a Notary Public of the County of _____

State of North Carolina, hereby certify that _____ appeared personally before me this day and being duly sworn acknowledged that the above form was executed by him.

Witness my hand and notarial seal, this _____ day of _____, 20_____

Seal

Notary

My commission expires_____

Fee Schedule

North Carolina Department of Environmental Quality,
Division of Energy, Mineral and Land Resources, Land Quality Section

Note: Payments may be made by check or money order to the N.C. Department of Environmental Quality. Processing will not begin before payment is received.

Dams

There are two fees for processing applications for approval concerning dams: (1) the minimum application processing fee and (2) the additional application processing fee.

These fees are described below.

- \$200 non-refundable minimum application processing fee with filing of application for construction, modification, or removal of a dam.

The following additional application processing fees are due with the submittal of an Owner's Cost Certification. It is based upon the following percentages of the actual cost of construction, enlargement, or removal of a dam.

- 2% of the actual cost between \$10,001 and \$100,000;
- 1.5% of the actual cost between \$100,001 and \$500,000;
- 1.0% of the actual cost between \$500,001 and \$1,000,000;
- 0.5% of the actual cost over \$1,000,001

The additional application fee amount cannot exceed \$50,000.

Actual costs shall include labor and materials associated with the construction, enlargement, or removal of a dam and appurtenances, but shall not include the costs associated with acquisition of land or right of way, design, quality control, electrical generating machinery, or constructing a road across the dam. The additional application fee must be submitted with an owner's certification form and accompanying documentation along with the as-built plans and the engineer's certification before final approval to impound or an approval of the breach will be granted.

Erosion & Sedimentation Control

- \$65 non-refundable review processing fee for each acre of disturbed land or any part of an acre of disturbed land (including off-site borrow and waste areas). No processing fee will be charged for a revised plan unless the revised plan contains an increase in the number of acres to be disturbed.

MINING FEES ON REVERSE SIDE

MINING

- A non-refundable permit application fee when filing for a new mining permit, a major permit modification or a renewal permit is required as follows:

TYPE	ACRES*	NEW PERMIT	MAJOR MODIFICATION	RENEWAL
Clay	1 but less than 25	\$500	\$250	\$250
	25 but less than 50	\$1,000	\$500	\$500
	50 or more	\$1,500	\$500	\$500
Sand & Gravel, Gemstone, and Borrow Pits	1 but less than 5	\$150	\$100	\$100
	5 but less than 25	\$250	\$100	\$100
	25 but less than 50	\$500	\$250	\$500
	50 or more	\$1,000	\$500	\$500
Quarry, Industrial Minerals, Dimension Stone	1 but less than 10	\$250	\$100	\$100
	10 but less than 25	\$1,000	\$250	\$500
	25 but less than 50	\$1,500	\$500	\$500
	50 or more	\$2,500	\$500	\$500
Peat & Phosphate	1 or more	\$2,500	\$500	\$500
Gold (Heap Leach), Titanium & Others	1 or more	\$2,500	\$500	\$500

- A non-refundable \$50 permit application processing fee is required for minor modifications. Minor permit modifications include administrative changes such as ownership transfers, name changes and bond substitutions. A minor permit modification also includes lands added to a permitted area, outside of the minimum permit buffer zone requirements, where no plans for mining related disturbance of the added lands have been approved. All other changes are considered major modifications.

- A non-refundable \$50 permit application processing fee is required for permit renewal of an inactive site, provided that any previously disturbed areas have been reclaimed in a manner acceptable to the Department.

* Acres for new permits and renewal permits mean the total acreage at the site. Acres for major modification of permits means that area of land affected by the modification within the permitted mine area, or any additional land that is to be disturbed and added to an existing permitted area, or both.

The Facts

- ✓ Sedimentation due to accelerated erosion is caused by land-disturbing activities such as agriculture, mining, construction, and forestry
- ✓ Sedimentation fills streams and lakes used for water supply, increasing the cost of water treatment
- ✓ Sedimentation fills streams and lakes used for power generation, increasing the cost of electric power
- ✓ Sedimentation fills streams and lakes, increasing the chances of flooding
- ✓ Sedimentation destroys fish and their food supply from mountain trout streams to coastal sounds
- ✓ Sedimentation destroys wildlife habitat
- ✓ Sedimentation can carry harmful chemicals and pollutants that are used on the land
- ✓ Erosion reduces property values
- ✓ Soil erosion removes the most valuable soils needed to grow food and plants
- ✓ Soil erosion removes soil that cannot be replaced for generations

How Can You Help?

If you suspect an erosion and sedimentation control violation, report it to the regional engineer of the Division of Energy, Mineral and Land Resources, Land Quality Section of the N.C. Department of Environmental Quality nearest you.

Keep Our Waters Sediment Free!

Report Possible Violations to 1-866-STOPMUD
For additional information visit the Land Quality Section website at:

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



Soil Erosion Facts

North Carolinians Are Paying For The Loss Of A Valuable Natural Resource

What can raise the cost of your water or electric bill? What can permanently close your favorite fishing or swimming lake or stream? What can destroy wildlife habitat overnight? What can change your valuable property into a worthless piece of land? Hint – it is the single largest polluter by volume of North Carolina's lakes, rivers and streams – and it's not radioactive waste or spilled chemicals. The answer – sedimentation caused by soil erosion.

In North Carolina It's Against The Law

Any time an acre or more of land is cleared for commercial, residential, industrial or road construction purposes, a state or local government approved erosion control plan is required. Property owners must submit, and receive, approval of an erosion and sedimentation control plan before beginning a land disturbing activity. The plan must be followed until the land disturbing activity is complete and a permanent groundcover is established. The Sedimentation Pollution Control Act of 1973 also requires the use of erosion control measures to keep sedimentation out of streams and lakes and from washing onto adjacent property. Failure to have an approved plan before the land disturbing activity begins can result in a fine of up to \$5,000 per day. Failure to follow the approved plan can also result in fines up to \$5,000 per day, the issuance of a stop-work order, injunctive relief, restoration or possible criminal convictions.

NORTH CAROLINA DIVISION OF ENERGY, MINERAL AND LAND RESOURCES
LAND QUALITY SECTION
REGIONAL OFFICES



Asheville Regional Office

2090 US Highway 70
Swannanoa, NC 28778-8211
(828) 296-4500

Fayetteville Regional Office

225 Green Street, Suite 714
Fayetteville, NC 28301-5095
(910) 433-3300

Mooresville Regional Office

610 East Center Avenue
Suite 301
Mooresville, NC 28115
(704) 663-1699

Raleigh Regional Office

3800 Barrett Drive
1628 Mail Service Center
Raleigh, NC 27609
(919) 791-4200

Washington Regional Office

943 Washington Square Mall
Washington, NC 27889
(252) 946-6481

Wilmington Regional Office

127 Cardinal Drive Extension
Wilmington, NC 28405
(910) 796-7215

Winston-Salem Regional Office

450 West Hanes Mill Road
Suite 300
Winston-Salem, NC 27105
(336) 776-9800

Raleigh Central Office

Land Quality Section
512 North Salisbury Street
1612 Mail Service Center
Raleigh, NC 27699-1612
(919) 707-9220

The Land

Land-disturbing activities for construction are primary causes of accelerated erosion in North Carolina. The rate of erosion can vary from almost nothing on lands where good conservation practices are used to over 100 tons of soil per acre per year on some poorly managed areas.

Many contractors and developers have found that erosion control is a good investment. If erosion is allowed to occur after site work is completed, it is very expensive to regrade the site and remove the sediment from damaged areas.

The Water

Sediment is the number one pollutant, by volume, in North Carolina. Sediment can quickly fill rivers, lakes and reservoirs, reducing fish populations and storage capacities of municipal water supplies.

Treating drinking water that is high in sediment increases the cost of treatment, which ultimately is passed on to you-the consumer. Erosion and sedimentation can be significantly reduced when erosion and sedimentation control practices are used on construction sites.

The Law

Uncontrolled soil erosion is a major concern in North Carolina because of its effect on the environment. In 1973 the General Assembly passed the North Carolina Sedimentation Pollution Control Act requiring anyone involved in land-disturbing activities to take special precautions to reduce soil erosion and prevent sedimentation damage to waterways and property.

The law includes five mandatory standards:

- prior plan approval
- slope stabilization
- establishment of groundcover
- stream buffer zones
- follow the approved plan

An erosion control plan for disturbances larger than one acre must be filed with the state at least 30 days prior to beginning the land disturbing activity and must be approved before the land-disturbing activity can begin. Failure to file an erosion control plan or to follow an approved plan can result in fines up to \$5000 per day. Willful noncompliance is considered a Class 2 misdemeanor punishable by a fine of up to \$5000. An injunction or stopwork order may also be issue.

The Facts:

- ✓ Sedimentation destroys wildlife habitat.
- ✓ Sediment fills lakes and streams used for power generation, increasing the cost of electric power.
- ✓ Sediment covers the food source for fish and other aquatic wildlife.
- ✓ Sediment reduces property values.
- ✓ Sediment can carry harmful chemicals and pollutants.
- ✓ Soil erosion removes the most valuable soils needed to grow plants and food.
- ✓ Soil erosion removes soil that cannot be replaced for generations.



DEQ
Regional Offices

The Land Quality Section Regional Offices

The Division of Energy, Mineral and Land Resources - Land Quality Section maintains a staff of engineers, geologists and technicians across the state to assist you in complying with erosion and sedimentation control requirements.

Asheville:
2090 US Highway 70
Swannanoa, NC 28778
(828) 296-4500

Winston-Salem:
450 West Hanes Mills Rd.
Suite 300
Winston-Salem, NC 27105
(336) 776-9800

Fayetteville:
Systel Building
225 Green St. Suite 714
Fayetteville, NC 28301
(910) 433-3300

Wilmington:
127 Cardinal Dr. Ext.
Wilmington, NC 28405
(910) 796-7215

Mooresville:
610 East Center Ave.
Suite 301
Mooresville, NC 28115 (704)
633-1699

Raleigh:
3800 Barrett Dr.
1628 Mail Service Center
Raleigh, NC 27609
(919) 791-4200

Washington:
943 Washington Square Mall
Washington, NC 27889
(252) 946-6481

Raleigh Central:
512 N Salisbury St.
1612 Mail Service Center
Raleigh, NC 27699-1612
(919) 707-9220

The following manuals,
publications and other resources
are available through the
Land Quality Section Administrative office in
Raleigh:

*The North Carolina Erosion and Sediment
Control Planning and Design Manual*

*The North Carolina Erosion and Sediment
Control Field Manual*

*The North Carolina Erosion and Sediment
Control Inspector's Guide*

*The North Carolina Erosion and Sediment
Control Practices: Video Modules*

Other educational programs within the Land Quality Section:

The *Erosion Patrol* 3rd Grade
Curriculum Supplement

Teacher and Student Packets

Erosion and Sedimentation
Control Workshops

Visit our Web Site at:
<https://deq.nc.gov/about/divisions/energy-mineral-land-resources>



3 REASONS

Why
You Should
Control
Erosion
On Your
Construction
Site

WHY EROSION CONTROL?

What can raise the cost of your water or electric bill?

What can close your favorite fishing area, swimming lake or stream?

What can destroy wildlife habitat overnight?

What can change your valuable property into a worthless piece of land?

Hint - It is the single largest pollutant by volume of North Carolina's lakes, rivers, and streams - and it's not toxic waste or spilled chemicals.

The answer - sediment caused by soil erosion



Erosion from unprotected construction sites harm our rivers, lakes, and streams.

THE LAW

The Sedimentation Pollution Control Act (SPCA) and state rules require **anyone** involved in land-disturbing activities to take special precautions to reduce soil erosion and prevent sedimentation that damages waterways and property.

Everyone must control erosion and sedimentation:

“Persons conducting land-disturbing activity shall take all reasonable measures to protect all public and private property from damage caused by such activities.” (15A NCAC 04B .0105)

Before any land-disturbing activity begins, check with your local government's regulations on erosion and sedimentation control as well as those of the North Carolina Erosion and Sedimentation Control Program.

WHAT CAN BE DONE TO CONTROL SEDIMENTATION?

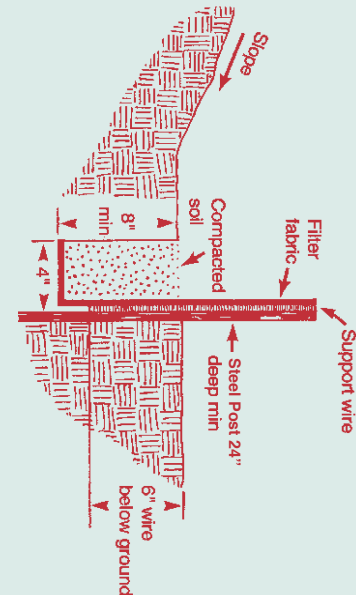
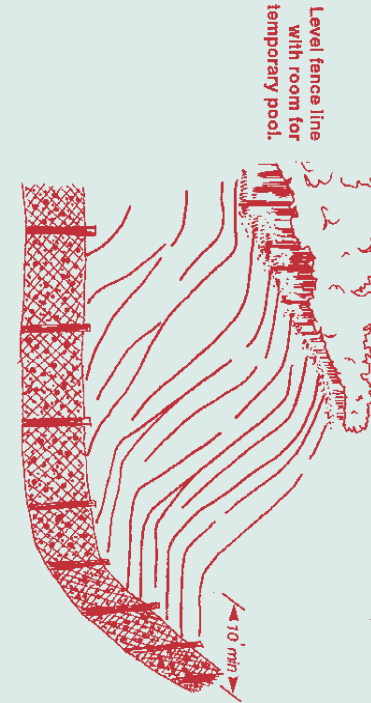
Here are some simple devices that can be used during construction to reduce erosion and minimize sedimentation.

- Temporary and permanent vegetation
- Sediment fence on property border
- Stone construction entrance
- Grass-covered drainage ditches



Sediment Fence

Inspect sediment fences after each rainfall and remove sediment deposits when they reach a height one-third the height of the sediment fence. Sediment removed from behind the fence should be placed on the property and properly stabilized.



Temporary Gravel Entrance/Exit



- The gravel entrance/exit provides a stable entrance condition from the construction site and keeps sediment off public roads.
- Inspect entrance/exit pad and sediment disposal area weekly and after heavy rains or heavy use.
- Reshape pad as needed for drainage and runoff control.
- Topdress with clean stone as needed.
- Immediately remove sediment tracked or washed onto public roads.



Asheville:
2090 US Highway 70
Swannanoa, NC 28778-8211
(828) 296-4500

Fayetteville:
225 Green St. Suite 714
Fayetteville, NC 28301-5095
(910) 433-3300

Mooresville:
610 E. Center Ave.
Suite 301
Mooresville, NC 28115
(704) 663-1699

Washington:
943 Washington Square Mall
Washington, NC 27889
(252) 946-6481

Winston-Salem:
459 West Hanes Mill Road
Suite 300
Winston-Salem, NC 27105-7407
(336) 776-9800

Wilmington:
127 Cardinal Dr. Ext.
Wilmington, NC 28405
(910) 796-7215

Raleigh:
3800 Barrett Dr.
1628 Mail Service Center
Raleigh, NC 27609
(919) 791-4200

Raleigh Central:
512 North Salisbury Street
1612 Mail Service Center
Raleigh, NC 27699-1612
(919) 707-9220

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

Report possible violations of the Sedimentation Pollution Control Act by calling:
1-866-STOPMUD (786-7683)



Revised: 7/18

CONTROLLING EROSION AND SEDIMENTATION ON SINGLE FAMILY HOME CONSTRUCTION SITES



North Carolina Erosion and Sedimentation Control Program

Local Erosion and Sediment Control Ordinances

Contact Information

Town of Apex

Stan Fortier, PE, CPESC
Senior Engineer
P.O. Box 250
Apex, NC 27502
*Phone: (919) 249-1166
Phone: (919) 249-3413
Fax: (919) 367-7280
stan.fortier@apexnc.org

City of Archdale

David Señeres, PE
Stormwater Program Manager
307 Balfour Drive
P.O. Box 14068
Archdale, NC 27263
Phone: (336) 439-7344
Fax: (336) 431- 2130
dseneres@archdale-nc.gov

City of Asheville

Monte Clampett
Construction Coordinator
P.O. Box 7148
Asheville, NC 28802
Phone: (828) 259-5434
Fax: (828) 232- 4517
mclampett@ashevillenc.gov

Avery County

Tommy Burlinson, Director
200 Montezuma Street
P.O. Box 596
Newland, NC 28657
Phone: (828) 733-8204
Fax: (828) 733-7003
avery.planning@averycountync.gov

Town of Beech Mountain

Preston Yates
Town Planner
403 Beech Mountain Parkway
Beech Mountain, NC 28604
Phone: (828) 387-4236
Fax: (828) 387-4862
planner@townofbeechmountain.com

Town of Boone

Brian Johnson
Urban Design Specialist
680 West King Street, Suite C
Boone NC 28607
Phone: (828) 268-6960
Fax: (828) 268-6961
brian.johnson@townofboone.net

Buncombe County

Doug Sharp
Erosion Control Officer
46 Valley Street
Asheville, NC 28801
Phone: (828) 250-4848
Fax: (828) 250-6086
doug.sharp@buncombecounty.org

City of Burlington

Brandon Holt, PE
425 S. Lexington Avenue
Burlington, NC 27215
Phone: (336) 222-5050
Fax: (336) 513-5467
BHolt@burlintonnc.gov

Town of Cary

Kirk Stafford, CESSWI
Stormwater Engineering Tech
Water Resources Department
Town of Cary
P.O. Box 8005
Cary, NC 27512-8005
Phone: (919) 462-3886
kirk.stafford@townofcary.org

Catawba County

Toni Norton, PE
Water Resources Engineer
P.O. Box 389
Newton, NC 28658
Phone: (828) 465-8161
Fax: (828) 465-8392
tnorton@catawbacountync.gov

Town of Chapel Hill

Kiel Harms, PE, CFM
Engineer III
208 N Columbia St
Town of Chapel Hill
Phone: (919)-968-2713
kharms@townofchapelhill.org
Howard W. Fleming
Engineering/Stormwater Division
Supervisor
P.O. Box 8181
Hillsborough, NC 27278
Phone: (919) 245-2586
hffleming@orangecounty.nc.gov

City of Charlotte

Jay Wilson, CPESC
WQ/Erosion Control Administrator
Engineering & Property Mgmt.
600 E. 4th Street
Charlotte, NC 28202
Phone: (704) 517-1152
Fax: (704) 632-9964
jpwilson@charlottenc.gov

Chatham County

Rachael Thorn
Erosion & Sed. Control Officer
P.O. Box 548
Pittsboro, NC 27312-0130
Phone: (919) 545-8343
Fax: (919) 542-8288
rachael.thorn@chathamnc.org
Morgan DeWit
Senior Watershed Specialist
Phone: (919) 542-8268
Morgan.dewit@chathamnc.org

Town of Fuquay-Varina

Jennifer Mitchell
401 Old Honeycutt Road
Fuquay-Varina, NC 27526
Phone: (919) 753-1004
jmitchell@fuquay-varina.org
stormwater@fuquay-varina.org

City of Greensboro

Cass Heaton, Section Chief Sediment
and Erosion Control
Water Resources
P.O. Box 3136
Greensboro, NC 27402-3136
Phone: (336) 373-2030
Fax: (336) 373-3119
Cass.Heaton@greensboro-nc.gov

Haywood County

*Tim V. Surret
Development Services Specialist
Erosion Control Director
157 Paragon Pkwy, Suite 200
Clyde, NC 28721
Phone: (828) 452-6706
Fax: (828) 452-6798
Tim.surrett@haywoodcountync.gov
Marc Pruett, CPESC
Development Services Specialist
mpruett@haywoodnc.net

Town of Highlands

Andrew Bowen
Planning & Dev. Director
P.O. Box 460
Highlands, NC 28741
Phone: (828) 526-2118
Fax: (828) 526-2595
andrew.bowen@highlandsnc.org

Town of Columbus

Timothy Barth, Town Manager
P.O. Box 146
Columbus, NC 28722
Phone: (828) 894-8236
Fax: (828)894-2797
manager@columbusnc.com
Natalie Berry, PE
Assistant County Engineer
Phone: (828) 694-6521
nberry@hendersoncountync.org

Gaston County

Joseph Alm
Program Administrator
1303 Cherryville Highway
Dallas, NC 28034
Phone: (704) 922-2157
Fax: (704) 922-2158
jdalm@co.gaston.nc.us

City of Greenville

Scott Godefroy
Public Works Engineer
1500 Beatty Street
P.O. Box 7207
Greenville, NC 27835-7207
Phone: (252) 329-4467
Fax: (252) 329-4535
sgodefroy@greenvillenc.gov

City of Henderson

Clark Thomas, PE
City Engineer
900 S Beckford Dr.
P.O. Box 1434
Henderson, NC 27536
Phone: (252) 430-5728
Fax: (252) 431-0124
cthomas@ci.henderson.nc.us

City of High Point

Scott Dingus, CE II
211 S. Hamilton Street
P.O. Box 230
High Point, NC 27261
Phone: (336) 883-3203
Fax: (336) 883-4118
scott.dingus@highpointnc.gov

Durham City/County

Ryan Eaves
Stormwater and Erosion Control Division
Manager
120 E. Parrish Street
Law Building, 1st Floor
Durham, NC 27701
Phone: (919) 560-7992
Fax: (919) 328-6295
reaves@dconc.gov

Grandfather Village

Alan Shuping
Director of Facilities and Infrastructure 2120
Highway 105
P.O. Box 368
Linville, NC 28646
Phone: (828) 898-4531 ext 127
Fax: (828) 898-7628
ashuping@grandfatherclubnc.com

Guilford County

Earl Davis
Erosion Control Section Chief
Guilford County Planning Department
P.O. Box 3427
Greensboro, NC 27402
Phone: (336) 641-3803
Fax: (336) 641-3880
edavis@co.guilford.nc.us

Henderson County

Natalie Berry, PE
Assistant County Engineer
100 N. King Street, Suite 210
Hendersonville, NC 28792
Phone: (828) 694-6521
Fax: (828) 694-6610
nberry@hendersoncountync.org

Town of Holly Springs

Daniel Colavito, CFM
Environmental Specialist
P.O. Box 8
Holly Springs, NC 27540
Phone: (919) 557-3938
Fax: (919) 552-9881
daniel.colavito@hollyspringsnc.us

Iredell County

Randy Moore
Erosion Control Inspector
P.O. Box 788
Statesville, NC 28687
Phone: (704) 832-2352
Fax: (704) 928-2025
rmoores@co.iredell.nc.us

Johnston County

Charles Pender, Jr.
Engineering and Environmental
Technician
Johnston County Public Utilities
PO Box 2263
Smithfield, NC 27577
Phone: (919) 209-8333
charles.pender@johnstonnc.com
Jessica Batten, EI
Development Engineer/Stormwater
Manager
Johnston County Public Utilities
PO Box 2263
Smithfield, NC 27577
Phone: (919) 938-4717
Jessica.batten@johnstonnc.com

Town of Lake Lure

Garrett Murphy
Development and Environmental
Review Specialist
PO Box 255
Lake Lure, NC 28746
Phone: (828) 625-9983
Fax: (828) 625-8371
gmurphy@townoflakelure.com

City of Monroe

*Jim Loyd, PE
Engineering Director
P.O. Box 69
Monroe, NC 28111-0069
*Phone: (704) 282-4529
Fax: (704) 282-4735
jloyd@monroenc.org
Tonya Griffin
Civil Engineer 1-Plan Reviewer
Phone: (704) 282-4533
tgriffin@monroenc.org

City of Newton

Alex Fulbright
Asst. Planning Director
Planning Department
P.O. Box 550
Newton, NC 28658
Phone: (828) 695-4326
Fax: (828) 465-7412

Jackson County

Tony Elders, Director
Permitting & Code Enforcement
401 Grindstaff Cove Road
Suite 145
Sylva, NC 28779
Phone: (828) 631-2284
Fax: (828) 586-7563
tonyelders@jacksonnc.org

Town of Kill Devil Hills

Meredith Guns
Asst. Planning Director
P.O. Box 1719
Kill Devil Hills, NC 27948
Phone: (252) 449-5318
Fax: (252) 441-4102
meredith@kdhnc.com

Lincoln County

Danielle Rudisill, CPESC
Erosion and Sedimentation Control
Administrator
115 West Main Street
Lincolnton, NC 28092
Phone: (704) 736-8501
Fax: (704) 736-8504
drudisill@lincolncounty.org

Town of Nags Head

Margaux Kerr
Zoning Administrator
P.O. Box 99
Nags Head, NC 27959
Phone: (252) 449-6045
Fax: (252) 441-4290
margaux.kerr@nagsheadnc.gov

Orange County

Wesley Poole
Erosion Control & Stormwater
Division Officer II
P.O. Box 8181
Hillsborough, NC 27278
Phone: (919) 245-2587
Fax: (919) 644-3002
wpoole@co.orange.nc.us
Howard W. Fleming
Engineering/Stormwater Division
Supervisor
Phone: (919) 245-2586
hffleming@orangecounty.nc.gov

City of Jacksonville

Pat Donovan-Brandenburg
Stormwater Manager
815 New Bridge Street
PO Box 128
Jacksonville, NC 28540
Phone: (910) 938-6446
Fax: (910) 938-5278
pdonovan-brandenburg@jacksonvillenc.gov

Town of Kitty Hawk

Rob Testerman
Director of Planning and Inspections
PO Box 549
Kitty Hawk, NC 27949
Phone: (252) 261-3552
Fax: (252) 261-7900
rob.testerman@kittyhawktown.net

Macon County

Jack Morgan
Erosion Control Officer
1834 Lakeside Drive
Franklin, NC 28734
Phone: (828) 349-2170
Fax: (828) 524-2653
jmorgan@maconnc.org
Joe Allen
Assistant Planer
Phone: (828) 349-2518
jallen@maconnc.org

Mecklenburg County

Jason Klingler
Senior Environmental Specialist
Permitting and Compliance
700 N. Tryon Street
Charlotte, NC 28202
*Cell: (980) 721-3567
Phone: (704) 336-7837
Fax: (704) 336-4391
jason.klingler@mecklenburgcountync.gov

New Hanover County

Beth Easley Wetherill, CPESC
Erosion Control Engineer
230 Government Center Drive,
Suite 160
Wilmington, NC 28403
Phone: (910) 798-7139
Cell: (910) 520-0373
Fax: (910) 798-7051
bwetherill@nhcgov.com

afulbright@newtonnc.gov

City of Raleigh

Ben Brown, PE, CFM
Stormwater Development Supervisor
One Exchange Plaza, 3rd Floor
P.O. Box 590
Raleigh, NC 27602
Phone: (919) 996-3515
Fax: (919) 996-7633

ben.brown@raleighnc.gov

Ashley Rodgers, PE, CFM
Stormwater Review Manager
Phone: (919) 996-3970

Ashley.rodgers@raleighnc.gov

Town of Southern Pines

Brent Lockamy, PE
Town Engineer
140 Memorial Park Court
Southern Pines, NC 28387
Phone: (910) 692-1983
Fax: (910) 692-1085

Lockamy@southernpines.net

Town of Wake Forest

Scott Miles, PE
Public Infrastructure Engineer
301 S. Brooks Street
Wake Forest, NC 27587
Phone: (919) 435-9442

smiles@wakeforestnc.gov

City of Wilson

Michael Horan
Erosion Control Specialist
Engineering Department
P.O. Box 10
Wilson, NC 27894
Phone: (252) 296-3434
Fax: (252) 399-2453

mhoran@wilsonnc.org

Town of Waxhaw

Christopher Rice
Sedimentation & Erosion Control
Inspector
1150 N. Broome Street
PO BOX 617
Waxhaw, NC 28173
Phone: (704) 843-2195
Fax: (704) 234-3276
crice@waxhaw.com

City of Rocky Mount

Donald Perry, PE, CPESC
Stormwater Engineer II
Dept. of Engineering
331 South Franklin Street
P.O. Box 1180
Rocky Mount, NC 27802-1180
Phone: (252) 972-1340
Fax: (252) 972-1176

donald.perry@rockymountnc.gov

Swain County

Kevin Seagle
Inspections Supervisor
P.O. Box 2321
Bryson City, NC 28713
Phone: (828) 488-9134
Fax: (828) 488-9601

kevinseagle@hotmail.com

Watauga County

Chris Grubb
Property Dev. Coordinator
842 West King Street, Suite A
Boone, NC 28607
Phone: (828) 265-8043
Fax: (828) 265-8080

chris.grubb@watgov.org

Winston-Salem/Forsyth County

Matthew Osborne, CPESC
Erosion Control Engineer
100 E. First Street, Ste. 328
Winston-Salem, NC 27101
Phone: (336) 747-7453
Fax: (336) 747-6917

matthewo@cityofws.org

Pitt County

Jonas Hill, Planner III
1717 W. Fifth Street
Greenville, NC 27834
Phone: (252) 902-3250
Fax: (252) 830-2576

jnhill@pittcountync.gov

Mark Nottingham, Planner III

mark.nottingham@pittcountync.gov

Rowan County

Greg Greene, Environmental Specialist
2727-D Old Concord Road
Salisbury, NC 28146
Phone: (704) 216-8591
Fax: (704) 216-8969

greg.greene@rowancountync.gov

Wake County

Melinda Clark
Watershed Manager
Wake County Env. Services
336 Fayetteville Street
P.O. Box 550
Raleigh, NC 27602
Phone: (919) 856-5531
Fax: (919) 856-7407

melinda.clark@wakegov.com

Village of Whispering Pines

Linda Christopher
Assist. Village Manager
10 Pine Ridge Drive
Whispering Pines, NC 28327
Phone: (910) 949-3141
Fax: (910) 949-3907

lchristopher@whisperingpinesnc.net

* denotes main contact for local program

**North Carolina Department of Environmental Quality
Division of Energy, Mineral and Land Resources
Land Quality Section Regional Offices**



Asheville Regional Office

2090 US Highway 70
Swannanoa, NC 28778-8211
Phone: (828) 296-4500
Fax: (828) 299-7043

Fayetteville Regional Office

Systel Building
225 Green St., Suite 714
Fayetteville, NC 28301-5095
Phone: (910) 433-3300
Fax: (910) 486-0707

Mooresville Regional Office

Iredell County Government
Center South Building
610 East Center Avenue
Suite 301
Mooresville, NC 28115
Phone: (704) 663-1699
Fax: (704) 663-6040

Raleigh Regional Office

3800 Barrett Drive
1628 Mail Service Center
Raleigh, NC 27609
Phone: (919) 791-4200
Fax: (919) 571-4718

Washington Regional Office

943 Washington Square Mall
Washington, NC 27889
Phone: (252) 946-6481
Fax: (252) 975-3716

Wilmington Regional Office

127 Cardinal Drive Extension
Wilmington, NC 28405
Phone: (910) 796-7215
Fax: (910) 350-2004

Winston-Salem Regional Office

450 West Hanes Mill Road
Suite 300
Winston-Salem, NC 27105-7407
Phone: (336) 776-9800
Fax: (336) 776-9797

Raleigh Central Office

512 North Salisbury Street
1612 Mail Service Center
Raleigh, NC 27699-1612
Phone: (919) 707-9220
Fax: (919) 733-2876

<https://deq.nc.gov/contact/regional-offices>

Revised: 10/29/2018



Sedimentation Pollution Control Act of 1973

(As Amended through 2006)

North Carolina General Statutes Chapter 113A Article 4

§ 113A-50. Short title.

This Article shall be known as and may be cited as the "Sedimentation Pollution Control Act of 1973." (1973, c. 392, s. 1.)

§ 113A-51. Preamble.

The sedimentation of streams, lakes and other waters of this State constitutes a major pollution problem. Sedimentation occurs from the erosion or depositing of soil and other materials into the waters, principally from construction sites and road maintenance. The continued development of this State will result in an intensification of pollution through sedimentation unless timely and appropriate action is taken. Control of erosion and sedimentation is deemed vital to the public interest and necessary to the public health and welfare, and expenditures of funds for erosion and sedimentation control programs shall be deemed for a public purpose. It is the purpose of this Article to provide for the creation, administration, and enforcement of a program and for the adoption of minimal mandatory standards which will permit development of this State to continue with the least detrimental effects from pollution by sedimentation. In recognition of the desirability of early coordination of sedimentation control planning, it is the intention of the General Assembly that preconstruction conferences be held among the affected parties, subject to the availability of staff. (1973, c. 392, s. 2; 1975, c. 647, s. 3.)

§ 113A-52. Definitions.

As used in this Article, unless the context otherwise requires:

- (1) Repealed by Session Laws 1973, c. 1417, s. 1.
- (1a) "Affiliate" has the same meaning as in 17 Code of Federal Regulations § 240.12(b)-2 (1 June 1993 Edition), which defines "affiliate" as a person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control of another person.
- (2) "Commission" means the North Carolina Sedimentation Control Commission.
- (3) "Department" means the North Carolina Department of Environment and Natural Resources.
- (4) "District" means any Soil and Water Conservation District created pursuant to Chapter 139, North Carolina General Statutes.
- (5) "Erosion" means the wearing away of land surface by the action of wind, water, gravity, or any combination thereof.
- (6) "Land-disturbing activity" means any use of the land by any person in residential, industrial, educational, institutional or commercial development, highway and road construction and

maintenance that results in a change in the natural cover or topography and that may cause or contribute to sedimentation.

(7) "Local government" means any county, incorporated village, town, or city, or any combination of counties, incorporated villages, towns, and cities, acting through a joint program pursuant to the provisions of this Article.

(7a) "Parent" has the same meaning as in 17 Code of Federal Regulations § 240.12(b)-2 (1 June 1993 Edition), which defines "parent" as an affiliate that directly, or indirectly through one or more intermediaries, controls another person.

(8) "Person" means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, or other legal entity.

(9) "Secretary" means the Secretary of Environment and Natural Resources.

(10) "Sediment" means solid particulate matter, both mineral and organic, that has been or is being transported by water, air, gravity, or ice from its site of origin.

(10a) "Subsidiary" has the same meaning as in 17 Code of Federal Regulations § 240.12(b)-2 (1 June 1993 Edition), which defines "subsidiary" as an affiliate that is directly, or indirectly through one or more intermediaries, controlled by another person.

(10b) "Tract" means all contiguous land and bodies of water being disturbed or to be disturbed as a unit, regardless of ownership.

(11) "Working days" means days exclusive of Saturday and Sunday during which weather conditions or soil conditions permit land-disturbing activity to be undertaken. (1973, c. 392, s. 3; c. 1417, s. 1; 1975, c. 647, s. 1; 1977, c. 771, s. 4; 1989, c. 179, s. 1; c. 727, s. 218(60); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1991, c. 275, s. 1; 1993 (Reg. Sess., 1994), c. 776, s. 1; 1997-443, s. 11A.119(a).)

§ 113A-52.01. Applicability of this Article.

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

(1) Activities, including the breeding and grazing of livestock, 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.

(2) Activities undertaken on forestland for the production and harvesting of timber and timber products and conducted in accordance with best management practices set out in Forest Practice Guidelines Related to Water Quality, as adopted by the Department.

(3) Activities for which a permit is required under the Mining Act of 1971, Article 7 of Chapter 74 of the General Statutes.

(4) For the duration of an emergency, activities essential to protect human life. (1993 (Reg. Sess., 1994), c. 776, s. 2; 1997-84, s. 1.)

§ 113A-52.1. Forest Practice Guidelines.

(a) The Department 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.

(b) If land-disturbing activity undertaken on forestland for the production and harvesting of timber and timber products is not conducted in accordance with Forest Practice Guidelines Related to Water Quality, the provisions of this Article shall apply to such activity and any related land-disturbing activity on the tract.

(c) The Secretary shall establish a Technical Advisory Committee to assist in the development and periodic review of Forest Practice Guidelines Related to Water Quality. The Technical Advisory Committee shall consist of one member from the forest products industry, one member who is a consulting forester, one member who is a private landowner knowledgeable in forestry, one member from the United States Forest Service, one member from the academic community who is knowledgeable in forestry, one member who is knowledgeable in erosion and sedimentation control, one member who is knowledgeable in wildlife management, one member who is knowledgeable in marine fisheries management, one member who is knowledgeable in water quality, and one member from the conservation community.(1989, c. 179, s. 2.)

§ 113A-53. Repealed by Session Laws 1973, c. 1262, s. 41.

§ 113A-54. Powers and duties of the Commission.

(a) The Commission shall, in cooperation with the Secretary of Transportation and other appropriate State and federal agencies, develop, promulgate, publicize, and administer a comprehensive State erosion and sedimentation control program.

(b) The Commission shall develop and adopt and shall revise as necessary from time to time, rules and regulations for the control of erosion and sedimentation resulting from land-disturbing activities. The Commission shall adopt or revise its rules and regulations in accordance with Chapter 150B of the General Statutes.

(c) The rules and regulations adopted pursuant to G.S. 113A-54(b) for carrying out the erosion and sedimentation control program shall:

(1) Be based upon relevant physical and developmental information concerning the watershed and drainage basins of the State, including, but not limited to, data relating to land use, soils, hydrology, geology, grading, ground cover, size of land area being disturbed, proximate water bodies and their characteristics, transportation, and public facilities and services;

(2) Include such survey of lands and waters as may be deemed appropriate by the Commission or required by any applicable laws to identify those areas, including multijurisdictional and watershed areas, with critical erosion and sedimentation problems; and

(3) Contain conservation standards for various types of soils and land uses, which standards shall include criteria and alternative techniques and methods for the control of erosion and sedimentation resulting from land-disturbing activities.

(d) In implementing the erosion and sedimentation control program, the Commission shall:

(1) Assist and encourage local governments in developing erosion and sedimentation control programs and, as a part of this assistance, the Commission shall develop a model local erosion and sedimentation control ordinance. The Commission shall approve, approve as modified, or disapprove local programs submitted to it pursuant to G.S. 113A-60.

(2) Assist and encourage other State agencies in developing erosion and sedimentation control

programs to be administered in their jurisdictions. The Commission shall approve, approve as modified, or disapprove programs submitted pursuant to G.S. 113A-56 and from time to time shall review these programs for compliance with rules adopted by the Commission and for adequate enforcement.

(3) Develop recommended methods of control of sedimentation and prepare and make available for distribution publications and other materials dealing with sedimentation control techniques appropriate for use by persons engaged in land-disturbing activities, general educational materials on erosion and sedimentation control, and instructional materials for persons involved in the enforcement of this Article and erosion and sedimentation control rules, ordinances, regulations, and plans.

(4) Require submission of erosion and sedimentation control plans by those responsible for initiating land-disturbing activities for approval prior to commencement of the activities.

(e) To assist it in developing the erosion and sedimentation control program required by this Article, the Commission is authorized to appoint an advisory committee consisting of technical experts in the fields of water resources, soil science, engineering, and landscape architecture.

(f) Repealed by Session Laws 1987, c. 827, s. 10, effective August 13, 1987. (1973, c. 392, s. 5; c. 1331, s. 3; c. 1417, s. 6; 1975, 2nd Sess., c. 983, s. 74; 1977, c. 464, s. 35; 1979, c. 922, s. 2; 1983 (Reg. Sess., 1984), c. 1014, ss. 1, 2; 1987, c. 827, s. 10; 1987 (Reg. Sess., 1988), c. 1000, s. 3; 1989, c. 676, s. 1; 1993 (Reg. Sess., 1994), c. 776, s. 3; 2002-165, ss. 2.2, 2.3.)

§ 113A-54.1. Approval of erosion control plans.

(a) A draft erosion and sedimentation control plan must contain the applicant's address and, if the applicant is not a resident of North Carolina, designate a North Carolina agent for the purpose of receiving notice from the Commission or the Secretary of compliance or noncompliance with the plan, this Article, or any rules adopted pursuant to this Article. If the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity. The Commission shall approve, approve with modifications, or disapprove a draft erosion and sedimentation control plan for those land-disturbing activities for which prior plan approval is required within 30 days of receipt. The Commission shall condition approval of a draft erosion and sedimentation control plan upon the applicant's compliance with federal and State water quality laws, regulations, and rules. Failure to approve, approve with modifications, or disapprove a completed draft erosion and sedimentation control plan within 30 days of receipt shall be deemed approval of the plan. If the Commission disapproves a draft erosion and sedimentation control plan or a revised erosion and sedimentation control plan, it must state in writing the specific reasons that the plan was disapproved. Failure to approve, approve with modifications, or disapprove a revised erosion and sedimentation control plan within 15 days of receipt shall be deemed approval of the plan. The Commission may establish an expiration date for erosion and sedimentation control plans approved under this Article.

(b) If, following commencement of a land-disturbing activity pursuant to an approved erosion and sedimentation control plan, the Commission determines that the plan is inadequate to meet the requirements of this Article, the Commission may require any revision of the plan that is necessary to comply with this Article. Failure to approve, approve with modifications, or disapprove a revised erosion and sedimentation control plan within 15 days of receipt shall be deemed approval of the plan.

(c) The Commission shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. The Director of the Division of Land Resources may disapprove an erosion and sedimentation control plan upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

(1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to this Article and has not complied with the notice within the time specified in the notice;

(2) Has failed to pay a civil penalty assessed pursuant to this Article or a local ordinance adopted pursuant to this Article by the time the payment is due;

(3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this Article; or

(4) Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to this Article.

(d) In the event that an erosion and sedimentation control plan is disapproved by the Director pursuant to subsection (c) of this section, the Director shall state in writing the specific reasons that the plan was disapproved. The applicant may appeal the Director's disapproval of the plan to the Commission. For purposes of this subsection and subsection (c) of this section, an applicant's record may be considered for only the two years prior to the application date.

(e) The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. 113A-57(2). The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection shall be in addition to inspections required by G.S. 113A-61.1. (1989, c. 676, s. 2; 1993 (Reg. Sess., 1994), c. 776, s. 4; 1998-221, s. 1.11(a); 1999-379, s. 1; 2005-386, s. 7.1; 2006-250, s. 1.)

§ 113A-54.2. Approval Fees.

(a) The Commission may establish a fee schedule for the review and approval of erosion and sedimentation control plans under this Article. In establishing the fee schedule, the Commission shall consider the administrative and personnel costs incurred by the Department for reviewing the plans and for related compliance activities. An application fee may not exceed fifty dollars (\$50.00) per acre of disturbed land shown on an erosion and sedimentation control plan or of

land actually disturbed during the life of the project.

(b) The Sedimentation Account is established as a nonreverting account within the Department. Fees collected under this section shall be credited to the Account and shall be applied to the costs of administering this Article.

(c) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 1039, s. 3, effective July 24, 1992.

(d) This section may not limit the existing authority of local programs approved pursuant to this Article to assess fees for the approval of erosion and sedimentation control plans. (1989 (Reg. Sess., 1990), c. 906, s. 1; 1991 (Reg. Sess., 1992), c. 1039, s. 3; 1993 (Reg. Sess., 1994), c. 776, s. 5; 1999-379, s. 5; 2002-165, s. 2.4.)

§ 113A-55. Authority of the Secretary.

The sedimentation control program developed by the Commission shall be administered by the Secretary under the direction of the Commission. To this end the Secretary shall employ the necessary clerical, technical, and administrative personnel, and assign tasks to the various divisions of the Department for the purpose of implementing this Article. The Secretary may bring enforcement actions pursuant to G.S. 113A-64 and G.S. 113A-65. The Secretary shall make final agency decisions in contested cases that arise from civil penalty assessments pursuant to G.S. 113A-64. (1973, c. 392, s. 6; c. 1417, s. 3; 1993 (Reg. Sess., 1994), c. 776, s. 6.)

§ 113A-56. Jurisdiction of the Commission.

(a) The Commission shall have jurisdiction, to the exclusion of local governments, to adopt rules concerning land-disturbing activities that are:

- (1) Conducted by the State.
- (2) Conducted by the United States.
- (3) Conducted by persons having the power of eminent domain other than a local government.
- (4) Conducted by a local government.
- (5) Funded in whole or in part by the State or the United States.

(b) The Commission may delegate the jurisdiction conferred by G.S. 113A- 56(a), in whole or in part, to any other State agency that has submitted an erosion and sedimentation control program to be administered by it, if the program has been approved by the Commission as being in conformity with the general State program.

(c) The Commission shall have concurrent jurisdiction with local governments that administer a delegated erosion and sedimentation control program over all other land-disturbing activities. In addition to the authority granted to the Commission in G.S. 113A-60(c), the Commission has the following authority with respect to a delegated erosion and sedimentation control program:

- (1) To review erosion and sedimentation control plan approvals made by a delegated erosion and sedimentation control program and to require a revised plan if the Commission determines that a plan does not comply with the requirements of this Article or the rules adopted pursuant to this Article.
- (2) To review the compliance activities of a delegated erosion and sedimentation control program and to take appropriate compliance action if the Commission determines that the local government has failed to take appropriate compliance action. (1973, c. 392, s. 7; c. 1417, s. 4; 1987, c. 827, s. 130; 1987 (Reg. Sess., 1988), c. 1000, s. 4; 2002-165, s. 2.5.; 2006-250, s. 2.)

§ 113A-57. Mandatory standards for land-disturbing activity.

No land-disturbing activity subject to this Article shall be undertaken except in accordance with the following mandatory requirements:

(1) 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. Waters that have been classified as trout waters by the Environmental Management Commission shall have an undisturbed buffer zone 25 feet wide or of sufficient width to confine visible siltation within the twenty-five percent (25%) of the buffer zone nearest the land-disturbing activity, whichever is greater. Provided, however, that the Sedimentation Control Commission may approve plans which include land-disturbing activity along trout waters when the duration of said disturbance would be temporary and the extent of said disturbance would be minimal. This subdivision shall not apply to a land-disturbing activity in connection with the construction of facilities to be located on, over, or under a lake or natural watercourse.

(2) The angle for graded slopes and fills shall be no greater than the angle that can be retained by vegetative cover or other adequate erosion-control devices or structures. In any event, slopes left exposed will, within 21 calendar days of completion of any phase of grading, be planted or otherwise provided with temporary or permanent ground cover, devices, or structures sufficient to restrain erosion.

(3) 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.

(4) 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. An erosion and sedimentation control plan may be filed less than 30 days prior to initiation of a land-disturbing activity if the plan is submitted under an approved express permit program, and the land-disturbing activity may be initiated and conducted in accordance with the plan once the plan has been approved. The agency having jurisdiction shall forward to the Director of the Division of Water Quality a copy of each erosion and sedimentation control plan for a land-disturbing activity that involves the utilization of ditches for the purpose of de-watering or lowering the water table of the tract.

(5) The land-disturbing activity shall be conducted in accordance with the approved erosion and sedimentation control plan. (1973, c. 392, s. 8; c. 1417, s. 5; 1975, c. 647, s. 2; 1979, c. 564; 1983 (Reg. Sess., 1984), c. 1014, s. 3; 1987, c. 827, s. 131; 1989, c. 676, s. 3; 1991, c. 275, s. 2; 1998-99, s. 1; 1999-379, s. 2; 2002-165, s. 2.6; 2005-386, s. 7.2; 2005-443, s. 2; 2006-255, s. 2.)

§ 113A-58. Enforcement authority of the Commission.

In implementing the provisions of this Article the Commission is authorized and directed to:

- (1) Inspect or cause to be inspected the sites of land-disturbing activities to determine whether applicable laws, regulations or erosion and sedimentation control plans are being complied with;
- (2) Make requests, or delegate to the Secretary authority to make requests, of the Attorney General or solicitors for prosecutions of violations of this Article. (1973, c. 392, s. 9; 2002-165, s. 2.7.)

§ 113A-59. Educational activities.

The Commission in conjunction with the soil and water conservation districts, the North Carolina Agricultural Extension Service, and other appropriate State and federal agencies shall conduct educational programs in erosion and sedimentation control, such programs to be directed towards State and local governmental officials, persons engaged in land-disturbing activities, and interested citizen groups. (1973, c. 392, s.10.)

§ 113A-60. Local erosion and sedimentation control programs.

- (a) A local government may submit to the Commission for its approval an erosion and sedimentation control program for its jurisdiction, and to this end local governments are authorized to adopt ordinances and regulations necessary to establish and enforce erosion and sedimentation control programs. An ordinance adopted by a local government may establish a fee for the review of an erosion and sedimentation control plan and related activities. Local governments are authorized to create or designate agencies or subdivisions of local government to administer and enforce the programs. An ordinance adopted by a local government shall at least meet and may exceed the minimum requirements of this Article and the rules adopted pursuant to this Article. Two or more units of local government are authorized to establish a joint program and to enter into any agreements that are necessary for the proper administration and enforcement of the program. The resolutions establishing any joint program must be duly recorded in the minutes of the governing body of each unit of local government participating in the program, and a certified copy of each resolution must be filed with the Commission.
- (b) The Commission shall review each program submitted and within 90 days of receipt thereof shall notify the local government submitting the program that it has been approved, approved with modifications, or disapproved. The Commission shall only approve a program upon determining that its standards equal or exceed those of this Article and rules adopted pursuant to this Article.
- (c) If the Commission determines that any local government is failing to administer or enforce an approved erosion and sedimentation control program, it shall notify the local government in writing and shall specify the deficiencies of administration and enforcement. If the local government has not taken corrective action within 30 days of receipt of notification from the Commission, the Commission shall assume administration and enforcement of the program until such time as the local government indicates its willingness and ability to resume administration and enforcement of the program.
- (d) A local government may submit to the Commission for its approval a limited erosion and sedimentation control program for its jurisdiction that grants the local government the

responsibility only for the assessment and collection of fees and for the inspection of land-disturbing activities within the jurisdiction of the local government. The Commission shall be responsible for the administration and enforcement of all other components of the erosion and sedimentation control program and the requirements of this Article. The local government may adopt ordinances and regulations necessary to establish a limited erosion and sedimentation control program. An ordinance adopted by a local government that establishes a limited program shall conform to the minimum requirements regarding the inspection of land-disturbing activities of this Article and the rules adopted pursuant to this Article regarding the inspection of land-disturbing activities. The local government shall establish and collect a fee to be paid by each person who submits an erosion and sedimentation control plan to the local government. The amount of the fee shall be an amount equal to eighty percent (80%) of the amount established by the Commission pursuant to G.S. 113A-54.2(a) plus any amount that the local government requires to cover the cost of inspection and program administration activities by the local government. The total fee shall not exceed one hundred dollars (\$100.00) per acre. A local government that administers a limited erosion and sedimentation control program shall pay to the Commission the portion of the fee that equals eighty percent (80%) of the fee established pursuant to G.S. 113A-54.2(a) to cover the cost to the Commission for the administration and enforcement of other components of the erosion and sedimentation control program. Fees paid to the Commission by a local government shall be deposited in the Sedimentation Account established by G.S. 113A-54.2(b). A local government that administers a limited erosion and sedimentation control program and that receives an erosion control plan and fee under this subsection shall immediately transmit the plan to the Commission for review. A local government may create or designate agencies or subdivisions of the local government to administer the limited program. Two or more units of local government may establish a joint limited program and enter into any agreements necessary for the proper administration of the limited program. The resolutions establishing any joint limited program must be duly recorded in the minutes of the governing body of each unit of local government participating in the limited program, and a certified copy of each resolution must be filed with the Commission. Subsections (b) and (c) of this section apply to the approval and oversight of limited programs. (e) Notwithstanding G.S. 113A-61.1, a local government with a limited erosion and sedimentation control program shall not issue a notice of violation if inspection indicates that the person engaged in land-disturbing activity has failed to comply with this Article, rules adopted pursuant to this Article, or an approved erosion and sedimentation control plan. The local government shall notify the Commission if any person has initiated land-disturbing activity for which an erosion and sedimentation control plan is required in the absence of an approved plan. If a local government with a limited program determines that a person engaged in a land-disturbing activity has failed to comply with an approved erosion and sedimentation control plan, the local government shall refer the matter to the Commission for inspection and enforcement pursuant to G.S. 113A-61.1. (1973, c. 392, s. 11; 1993 (Reg. Sess., 1994), c. 776, s. 7; 2002-165, s. 2.8.; 2006-250, s. 3.)

§ 113A-61. Local approval of erosion and sedimentation control plans.

(a) For those land-disturbing activities for which prior approval of an erosion and sedimentation control plan is required, the Commission may require that a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60 require the applicant

to submit a copy of the erosion and sedimentation control plan to the appropriate soil and water conservation district or districts at the same time the applicant submits the erosion and sedimentation control plan to the local government for approval. The soil and water conservation district or districts shall review the plan and submit any comments and recommendations to the local government within 20 days after the soil and water conservation district received the erosion and sedimentation control plan or within any shorter period of time as may be agreed upon by the soil and water conservation district and the local government. Failure of a soil and water conservation district to submit comments and recommendations within 20 days or within agreed upon shorter period of time shall not delay final action on the proposed plan by the local government.

(b) Local governments shall review each erosion and sedimentation control plan submitted to them and within 30 days of receipt thereof shall notify the person submitting the plan that it has been approved, approved with modifications, or disapproved. A local government shall only approve a plan upon determining that it complies with all applicable State and local regulations for erosion and sedimentation control.

(b1) A local government shall condition approval of a draft erosion and sedimentation control plan upon the applicant's compliance with federal and State water quality laws, regulations, and rules. A local government shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. A local government may disapprove an erosion and sedimentation control plan upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

(1) Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to this Article and has not complied with the notice within the time specified in the notice.

(2) Has failed to pay a civil penalty assessed pursuant to this Article or a local ordinance adopted pursuant to this Article by the time the payment is due.

(3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this Article.

(4) Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to this Article.

(b2) In the event that an erosion and sedimentation control plan is disapproved by a local government pursuant to subsection (b1) of this section, the local government shall so notify the Director of the Division of Land Resources within 10 days of such disapproval. The local government shall advise the applicant and the Director in writing as to the specific reasons that the plan was disapproved. Notwithstanding the provisions of subsection (c) of this section, the applicant may appeal the local government's disapproval of the plan directly to the Commission. For purposes of this subsection and subsection (b1) of this section, an applicant's record may be considered for only the two years prior to the application date.

(c) The disapproval or modification of any proposed erosion and sedimentation control plan by a local government shall entitle the person submitting the plan to a public hearing if such person submits written demand for a hearing within 15 days after receipt of written notice of the disapproval or modification. The hearings shall be conducted pursuant to procedures adopted by the local government. If the local government upholds the disapproval or modification of a proposed erosion and sedimentation control plan following the public hearing, the person

submitting the erosion and sedimentation control plan shall be entitled to appeal the local government's action disapproving or modifying the plan to the Commission. The Commission, by regulation, shall direct the Secretary to appoint such employees of the Department as may be necessary to hear appeals from the disapproval or modification of erosion and sedimentation control plans by local governments. In addition to providing for the appeal of local government decisions disapproving or modifying erosion and sedimentation control plans to designated employees of the Department, the Commission shall designate an erosion and sedimentation control plan review committee consisting of three members of the Commission. The person submitting the erosion and sedimentation control plan may appeal the decision of an employee of the Department who has heard an appeal of a local government action disapproving or modifying an erosion and sedimentation control plan to the erosion and sedimentation control plan review committee of the Commission. Judicial review of the final action of the erosion and sedimentation control plan review committee of the Commission may be had in the superior court of the county in which the local government is situated.

(d) Repealed by Session Laws 1989, c. 676, s. 4, effective October 1, 1989. (1973, c. 392, s. 12; 1979, c. 922, s. 1; 1989, c. 676, s. 4; 1993 (Reg. Sess., 1994), c. 776, ss. 8, 9; 1998-221, s. 1.11(b); 1999-379, s. 3; 2002-165, s. 2.9.)

§ 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. Notice of this right of inspection shall be included in the certificate of approval of each erosion and sedimentation control plan.

(b) No person shall willfully resist, delay, or obstruct an authorized representative of the Commission, an authorized representative of a local government, or an employee or an agent of the Department while the representative, employee, or agent is inspecting or attempting to inspect a land-disturbing activity under this section.

(c) If the Secretary, a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60, or other approving authority determines that the person engaged in the land-disturbing activity has failed to comply with this Article, the Secretary, local government, or other approving authority shall immediately serve a notice of violation upon that person. The notice may be served by any means authorized under G.S. 1A- 1, Rule 4. A notice of violation shall specify a date by which the person must comply with this Article and inform the person of the actions that need to be taken to comply with this Article. Any person who fails to comply within the time specified is subject to additional civil and criminal penalties for a continuing violation as provided in G.S. 113A-64. (1989, c. 676, s. 5; 1993 (Reg. Sess., 1994), c. 776, s. 10; 1999-379, s. 6; 2002-165, s. 2.10.)

§ 113A-62. Cooperation with the United States.

The Commission is authorized to cooperate and enter into agreements with any agency of the United States government in connection with plans for erosion and sedimentation control with

respect to land-disturbing activities on lands that are under the jurisdiction of such agency. (1973, c. 392, s. 13; 2002-165, s. 2.11.)

§ 113A-63. Financial and other assistance.

The Commission and local governments are authorized to receive from federal, State, and other public and private sources financial, technical, and other assistance for use in accomplishing the purposes of this Article. (1973, c. 392, s. 14.)

§ 113A-64. Penalties.

(a) Civil Penalties. --

(1) Any person who violates any of the provisions of this Article or any ordinance, rule, or order adopted or issued pursuant to this Article by the Commission or by a local government, or who initiates or continues a land-disturbing activity for which an erosion and sedimentation control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty for a violation is five thousand dollars (\$5,000). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation.

(2) The Secretary or a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60 shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and shall direct the violator to either pay the assessment or contest the assessment within 30 days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Secretary within 30 days after it is due, the Department shall request the Attorney General to institute a civil action to recover the amount of the assessment. If a violator does not pay a civil penalty assessed by a local government within 30 days after it is due, the local government may institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the violation occurred or the violator's residence or principal place of business is located. A civil action must be filed within three years of the date the assessment was due. An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

(3) In determining the amount of the penalty, the Secretary shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully and the prior record of the violator in complying or failing to comply with this Article.

(4) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 776, s. 11, effective October 1, 1994.

(5) The clear proceeds of civil penalties collected by the Department or other State agency under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2. Civil penalties collected by a local government under this subsection shall be credited to the general fund of the local government as nontax revenue.

(b) Criminal Penalties. -- Any person who knowingly or willfully violates any provision of this

Article or any ordinance, rule, regulation, or order duly adopted or issued by the Commission or a local government, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion and sedimentation control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor that may include a fine not to exceed five thousand dollars (\$5,000). (1973, c. 392, s. 15; 1977, c. 852; 1987, c. 246, s. 3; 1987 (Reg. Sess., 1988), c. 1000, s. 5; 1989, c. 676, s. 6; 1991, c. 412, s. 2; c. 725, s. 5; 1993, c. 539, s. 873; 1994, Ex. Sess., c. 24, s. 14(c); 1993 (Reg. Sess., 1994), c. 776, s. 11; 1998-215, s. 52; 1999-379, s. 4; 2002-165, s. 2.12.)

§ 113A-64.1. Restoration of areas affected by failure to comply.

The Secretary or a local government that administers a local erosion and sedimentation control program approved under G.S. 113A-60 may require a person who engaged in a land-disturbing activity and failed to retain sediment generated by the activity, as required by G.S. 113A-57(3), to restore the waters and land affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this Article. (1993 (Reg. Sess., 1994), c. 776, s. 12; 2002-165, s. 2.13.)

§ 113A-65. Injunctive relief.

(a) Violation of State Program. -- Whenever the Secretary has reasonable cause to believe that any person is violating or is threatening to violate the requirements of this Article he may, either before or after the institution of any other action or proceeding authorized by this Article, institute a civil action for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation or threatened violation is occurring or about to occur, and shall be in the name of the State upon the relation of the Secretary.

(b) Violation of Local Program. -- Whenever the governing body of a local government having jurisdiction has reasonable cause to believe that any person is violating or is threatening to violate any ordinance, rule, regulation, or order adopted or issued by the local government pursuant to this Article, or any term, condition or provision of an erosion and sedimentation control plan over which it has jurisdiction, may, either before or after the institution of any other action or proceeding authorized by this Article, institute a civil action in the name of the local government for injunctive relief to restrain the violation or threatened violation. The action shall be brought in the superior court of the county in which the violation is occurring or is threatened.

(c) Abatement, etc., of Violation. -- Upon determination by a court that an alleged violation is occurring or is threatened, the court shall enter any order or judgment that is necessary to abate the violation, to ensure that restoration is performed, or to prevent the threatened violation. The institution of an action for injunctive relief under subsections (a) or (b) of this section shall not relieve any party to the proceeding from any civil or criminal penalty prescribed for violations of this Article. (1973, c. 392, s. 16; 1993 (Reg. Sess., 1994), c. 776, s. 13; 2002-165, s. 2.14.)

§ 113A-65.1. Stop-work orders.

(a) The Secretary may issue a stop-work order if he finds that a land-disturbing activity is being

conducted in violation of this Article or of any rule adopted or order issued pursuant to this Article, that the violation is knowing and willful, and that either:

(1) Off-site sedimentation has eliminated or severely degraded a use in a lake or natural watercourse or that such degradation is imminent.

(2) Off-site sedimentation has caused severe damage to adjacent land or that such damage is imminent.

(3) The land-disturbing activity is being conducted without an approved plan.

(b) The stop-work order shall be in writing and shall state what work is to be stopped and what measures are required to abate the violation. The order shall include a statement of the findings made by the Secretary pursuant to subsection (a) of this section, and shall list the conditions under which work that has been stopped by the order may be resumed. The delivery of equipment and materials which does not contribute to the violation may continue while the stop-work order is in effect. A copy of this section shall be attached to the order.

(c) The stop-work order shall be served by the sheriff of the county in which the land-disturbing activity is being conducted or by some other person duly authorized by law to serve process as provided by G.S. 1A-1, Rule 4, and shall be served on the person at the site of the land-disturbing activity who is in operational control of the land-disturbing activity. The sheriff or other person duly authorized by law to serve process shall post a copy of the stop-work order in a conspicuous place at the site of the land-disturbing activity. The Department shall also deliver a copy of the stop-work order to any person that the Department has reason to believe may be responsible for the violation.

(d) The directives of a stop-work order become effective upon service of the order. Thereafter, any person notified of the stop-work order who violates any of the directives set out in the order may be assessed a civil penalty as provided in G.S. 113A-64(a). A stop-work order issued pursuant to this section may be issued for a period not to exceed five days.

(e) The Secretary shall designate an employee of the Department to monitor compliance with the stop-work order. The name of the employee so designated shall be included in the stop-work order. The employee so designated, or the Secretary, shall rescind the stop-work order if all the violations for which the stop-work order are issued are corrected, no other violations have occurred, and all measures necessary to abate the violations have been taken. The Secretary shall rescind a stop-work order that is issued in error.

(f) The issuance of a stop-work order shall be a final agency decision subject to judicial review in the same manner as an order in a contested case pursuant to Article 4 of Chapter 150B of the General Statutes. The petition for judicial review shall be filed in the superior court of the county in which the land-disturbing activity is being conducted.

(g) As used in this section, days are computed as provided in G.S. 1A-1, Rule 6. Except as otherwise provided, the Secretary may delegate any power or duty under this section to the Director of the Division of Land Resources of the Department or to any person who has supervisory authority over the Director. The Director may delegate any power or duty so delegated only to a person who is designated as acting Director.

(h) The Attorney General shall file a cause of action to abate the violations which resulted in the issuance of a stop-work order within two business days of the service of the stop-work order. The cause of action shall include a motion for an ex parte temporary restraining order to abate the violation and to effect necessary remedial measures. The resident superior court judge, or any judge assigned to hear the motion for the temporary restraining order, shall hear and determine the motion within two days of the filing of the complaint. The clerk of superior court shall accept

complaints filed pursuant to this section without the payment of filing fees. Filing fees shall be paid to the clerk of superior court within 30 days of the filing of the complaint. (1991, c. 412, s. 1; 1998-99, s. 2; 2005-386, s. 7.3.)

§ 113A-66. Civil relief.

(a) Any person injured by a violation of this Article or any ordinance, rule, or order duly adopted by the Secretary or a local government, or by the initiation or continuation of a land-disturbing activity for which an erosion and sedimentation control plan is required other than in accordance with the terms, conditions, and provisions of an approved plan, may bring a civil action against the person alleged to be in violation (including the State and any local government). The action may seek any of the following:

(1) Injunctive relief.

(2) An order enforcing the law, rule, ordinance, order, or erosion and sedimentation control plan violated.

(3) Damages caused by the violation.

(4) Repealed by Session Laws 2202-165, s. 2.15, effective October 23, 2002.

If the amount of actual damages as found by the court or jury in suits brought under this subsection is five thousand dollars (\$5,000) or less, the plaintiff shall be awarded costs of litigation including reasonable attorneys fees and expert witness fees.

(b) Civil actions under this section shall be brought in the superior court of the county in which the alleged violations occurred.

(c) The court, in issuing any final order in any action brought pursuant to this section may award costs of litigation (including reasonable attorney and expert-witness fees) to any party, whenever it determines that such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require, the filing of a bond or equivalent security, the amount of such bond or security to be determined by the court.

(d) Nothing in this section shall restrict any right which any person (or class of persons) may have under any statute or common law to seek injunctive or other relief. (1973, c. 392, s. 17; 1987 (Reg. Sess., 1988), c. 1000, s. 6; 2002-165, s. 2.15.)

§ 113A-67. Annual Report.

The Department shall report to the Environmental Review Commission on the implementation of this Article on or before 1 October of each year. The Department shall include in the report an analysis of how the implementation of the Sedimentation Pollution Control Act of 1973 is affecting activities that contribute to the sedimentation of streams, rivers, lakes, and other waters of the State. The report shall also include a review of the effectiveness of local erosion and sedimentation control programs. (2004-195, s. 2.1.)

SEDIMENTATION CONTROL COMMISSION

§ 143B-298. Sedimentation Control Commission - creation; powers and duties.

There is hereby created the Sedimentation Control Commission of the Department of Environment, Health, and Natural Resources with the power and duty to develop and administer

a sedimentation control program as herein provided. The Sedimentation Control Commission has the following powers and duties:

- (1) In cooperation with the Secretary of the Department of Transportation and Highway Safety and other appropriate State and federal agencies, develop, promulgate, publicize, and administer a comprehensive State erosion and sedimentation control program.
- (2) Develop and adopt on or before July 1, 1974, rules and regulations for the control of erosion and sedimentation pursuant to G.S. 113A-54.
- (3) Conduct public hearings pursuant to G.S. 113A-54. (4) Assist local governments in developing erosion and sedimentation control programs pursuant to G.S. 113A-60.
- (5) Assist and encourage other State agencies in developing erosion and sedimentation control programs pursuant to G.S. 113A-56.
- (6) Develop recommended methods of control of sedimentation and prepare and make available for distribution publications and other materials dealing with sedimentation control techniques pursuant to G.S. 113A-54. (1973, c. 1262, s. 39; 1977, c. 771, s. 4; 1989, c. 727, s. 218(137).)

§ 143B-299. Sedimentation Control Commission - members; selection; compensation; meetings.

(a) Creation; Membership. -- There is hereby created in the Department of Environment, Health, and Natural Resources the North Carolina Sedimentation Control Commission, which is charged with the duty of developing and administering the sedimentation control program provided for in this Article. The Commission shall consist of the following members:

- (1) A person to be nominated jointly by the boards of the North Carolina League of Municipalities and the North Carolina Association of County Commissioners;
- (2) A person to be nominated by the Board of the North Carolina Home Builders Association;
- (3) A person to be nominated by the Carolinas Branch, Associated General Contractors of America;
- (4) The president, vice-president, or general counsel of a North Carolina public utility company;
- (5) The Director of the North Carolina Water Resources Research Institute;
- (6) A member of the State Mining Commission who shall be a representative of nongovernmental conservation interests, as required by G.S. 74-38(b);
- (7) A member of the State Soil and Water Conservation Commission;
- (8) A member of the Environmental Management Commission;
- (9) A soil scientist from the faculty of North Carolina State University;
- (10) Two persons who shall be representatives of nongovernmental conservation interests; and
- (11) A professional engineer registered under the provisions of Chapter 89C of the General Statutes nominated by the Professional Engineers of North Carolina, Inc.

(b) Appointment. -- The Commission members shall be appointed by the Governor. All Commission members, except the person appointed under subdivision (5) of subsection (a) of this section, shall serve staggered terms of three years and until their successors are appointed and duly qualified. The person appointed under subdivision (5) of subsection (a) of this section shall serve as a member of the Commission, subject to removal by the Governor as hereinafter

specified in this section, so long as the person continues as Director of the Water Resources Research Institute. The terms of members appointed under subdivision (2), (4), (7), and (8) of subsection (a) of this section shall expire on 30 June of years evenly divisible by three. The terms of members appointed under subdivision (1), (3), and (10) of subsection (a) of this section shall expire on 30 June of years that follow by one year those years that are evenly divisible by three. The terms of members appointed under subdivision (6), (9), and (11) of subsection (a) of this section shall expire on 30 June of years that precede by one year those years that are evenly divisible by three. Except for the person appointed under subdivision (5) of subsection (a) of this section, no member of the Commission shall serve more than two complete consecutive three-year terms. Any member appointed by the Governor to fill a vacancy occurring in any of the appointments shall be appointed for the remainder of the term of the member causing the vacancy. The Governor may at any time remove any member of the Commission for inefficiency, neglect of duty, malfeasance, misfeasance, nonfeasance or because they no longer possess the required qualifications for membership. The office of the North Carolina Sedimentation Control Commission is declared to be an office that may be held concurrently with any other elective or appointive office, under the authority of Article VI, Sec. 9, of the North Carolina Constitution.

(b1) Chair. -- The Governor shall designate a member of the Commission to serve as chair.

(c) Compensation. -- The members of the Commission shall receive the usual and customary per diem allowed for the other members of boards and commissions of the State and as fixed in the Biennial Appropriation Act, and, in addition, the members of the Commission shall receive subsistence and travel expenses according to the prevailing State practice and as allowed and fixed by statute for such purposes, which said travel expenses shall also be allowed while going to or from any place of meeting or when on official business for the Commission. The per diem payments made to each member of the Commission shall include necessary time spent in traveling to and from their places of residence within the State to any place of meeting or while traveling on official business for the Commission.

(d) Meetings of Commission. -- The Commission shall meet at the call of the chair and shall hold special meetings at the call of a majority of the members. (1973, c. 1262, s. 40; 1977, c. 771, s. 4; 1981, c. 248, ss. 1, 2; 1989, c. 727, s. 218(138); 1989 (Reg. Sess., 1990), c. 1004, s. 19(b); 1991, c. 551, s. 1; 2006-79, s. 9.)

BUILDING PERMITS

In 1988, the General Assembly amended G.S. 153A-357 and 160A-417 regarding building permits. The amendments were as follows:

§ 153-357(b) No permit shall be issued pursuant to subsection (a) for any land-disturbing activity, as defined in G.S. 113A-52(6), for any activity covered by G.S. 113A-57, unless an erosion control plan has been approved by the Sedimentation Pollution Control Commission pursuant to G.S. 113A-54(d)(4) or by a local government pursuant to G.S. 113A-61 for the site of the activity or a tract of land including the site of the activity.

§ 160A-417(b) No permit shall be issued pursuant to subsection (a) for any land-disturbing activity, as defined in G.S. 113A-52(6), for any activity covered by G.S. 113A-57, unless an erosion control plan has been approved by the Sedimentation Pollution Control Commission pursuant to G.S. 113A-61 for the site of the activity or a tract of land including the site of the activity.

CHAPTER 04 - SEDIMENTATION CONTROL

This Chapter 4 of Title 15A of the North Carolina Administrative Code (T15A.04); SEDIMENTATION CONTROL; has been transferred and recodified from Chapter 16 of Title 15 of the North Carolina Administrative Code (T15.16), effective November 1, 1989. The recodification was pursuant to G.S. 143B-279.1.

SUBCHAPTER 04A - SEDIMENTATION CONTROL COMMISSION ORGANIZATION

15A NCAC 04A .0101 OFFICES OF THE SEDIMENTATION CONTROL COMMISSION

Persons may write or visit the North Carolina Sedimentation Control Commission offices at the Archdale Building, 512 N. Salisbury Street, P.O. Box 27687, Raleigh, North Carolina 27611. Persons may write or visit regional offices of the Commission's staff in the Division of Energy, Mineral, and Land Resources at the following locations:

- (1) Interchange Building
59 Woodfin Place
P.O. Box 370
Asheville, N.C. 28801
- (2) 585 Waughtown Street
Winston-Salem, N.C. 27107
- (3) 919 North Main Street
P.O. Box 950
Mooresville, N.C. 28115
- (4) 3800 Barrett Drive
P.O. Box 27687
Raleigh, N.C. 27611
- (5) Wachovia Building
Suite 714
Fayetteville, N.C. 28301
- (6) 1424 Carolina Avenue
P.O. Box 2188
Washington, N.C. 27889
- (7) 127 Cardinal Dr., Ext.
Wilmington, N.C. 28405-3845

History Note: Authority G.S. 143B-298;
Eff. February 1, 1976;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1(f)); October 1, 1995; February 1, 1992; May 1, 1990; December 1, 1988;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016.

15A NCAC 04A .0102 PURPOSES 15A NCAC 04A .0103 STRUCTURE 15A NCAC 04A .0104 DELEGATION

History Note: Authority G.S. 113A-54(b)(d)(3); 113A-56(a)(b); 113A-58(1); 113A-61(d); 143B-298;
Eff. February 1, 1976;
Amended Eff. August 1, 1985; November 1, 1984; June 5, 1981; January 31, 1979;
Repealed Eff. August 1, 1988.

15A NCAC 04A .0105 DEFINITIONS

As used in this Chapter, the following terms shall have these meanings:

- (1) "Accelerated Erosion" means any increase over the rate of natural erosion, as a result of land-disturbing activities.

- (2) "Adequate Erosion Control Measure, Structure, or Device" means one which controls the soil material within the land area under responsible control of the person conducting the land-disturbing activity.
- (3) "Borrow" means fill material which is required for on-site construction and is obtained from other locations.
- (4) "Buffer Zone" means the strip of land adjacent to a lake or natural watercourse.
- (5) "Ground Cover" means any natural vegetative growth or other material which renders the soil surface stable against accelerated erosion.
- (6) "Lake or Natural Watercourse" means any stream, river, brook, swamp, sound, bay, creek, run, branch, canal, waterway, estuary, and any reservoir, lake or pond, natural or impounded in which sediment may be moved or carried in suspension, and which could be damaged by accumulation of sediment.
- (7) "Natural Erosion" means erosion as defined in G.S. 113A-52(5) under natural environmental conditions undisturbed by man.
- (8) "Person Who Violates", as used in G.S. 113A-64, means:
 - (a) the developer or other person who has or holds himself out as having financial or operational control over the land-disturbing activity; or
 - (b) the landowner or person in possession or control of the land when he has directly or indirectly allowed the land-disturbing activity or has benefitted from it or he has failed to comply with any provision of the Sedimentation Pollution Control Act of 1973, G.S. 113A-50 to -66, the North Carolina Administrative Code, Title 15A, Chapter 4, or any order or local ordinance adopted pursuant to the Sedimentation Pollution Control Act of 1973, G.S. 113A-50 to -66, as imposes a duty upon him.
- (9) "Person Conducting Land Disturbing Activity" means any person who may be held responsible for a violation unless expressly provided otherwise by the Sedimentation Pollution Control Act of 1973, G.S. 113A-50 to -66, the North Carolina Administrative Code, Title 15A Chapter 4, or any order or local ordinance adopted pursuant to the Sedimentation Pollution Control Act of 1973, G.S. 113A-50 to -66.
- (10) "Phase of Grading" means one of two types of grading, rough or fine.
- (11) "Plan" means an erosion control plan.
- (12) "Sedimentation" means the process by which sediment resulting from accelerated erosion has been or is being transported off the site of the land-disturbing activity or into a lake or natural watercourse.
- (13) "Storm Water Runoff" means the direct runoff of water resulting from precipitation in any form.
- (14) "Being Conducted" means a land-disturbing activity has been initiated and permanent stabilization of the site has not been completed.
- (15) "Uncovered" means the removal of ground cover from, on, or above the soil surface.
- (16) "Undertaken" means the initiating of any activity, or phase of activity, which results or will result in a change in the ground cover or topography of a tract of land.
- (17) "Waste" means surplus materials resulting from on-site construction and disposed of at other locations.
- (18) "Energy Dissipator" means a structure or a shaped channel section with mechanical armoring placed at the outlet of pipes or conduits to receive and break down the energy from high velocity flow.
- (19) "Storm Drainage Facilities" means the system of inlets, conduits, channels, ditches and appurtenances which serve to collect and convey stormwater through and from a given drainage area.
- (20) "Ten Year Storm" means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 10 years, and of a duration which will produce the maximum peak rate of runoff, for the watershed of interest under average antecedent wetness conditions.

- (21) "Velocity" means the average velocity of flow through the cross section of the main channel at the peak flow of the storm of interest. The cross section of the main channel shall be that area defined by the geometry of the channel plus the area of flow below the flood height defined by vertical lines at the main channel banks. Overload flows are not to be included for the purpose of computing velocity of flow.
- (22) "Discharge Point" means that point at which runoff leaves a tract of land.
- (23) "Completion of Construction or Development" means that no further land-disturbing activity is required on a phase of a project except that which is necessary for establishing a permanent ground cover.
- (24) "High Quality Waters" means those classified as such in 15A NCAC 2B .0101(e)(5) - General Procedures, which is incorporated herein by reference to include further amendments.
- (25) "High Quality Water (HQW) Zones" means areas in the Coastal Counties that are within 575 feet of High Quality Waters and for the remainder of the state areas that are within one mile of and drain to HQW's.
- (26) "Director" means the Director of the Division of Energy, Mineral, and Land Resources of the Department of Environment, Health, and Natural Resources.
- (27) "Coastal counties" means the following counties: Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven, Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Tyrrell and Washington.
- (28) "Twenty-five Year Storm" means the surface runoff resulting from a rainfall of an intensity expected to be equaled or exceeded, on the average, once in 25 years, and of a duration which will produce the maximum peak rate of runoff, from the watershed of interest under average antecedent wetness conditions.

History Note: Filed as a Temporary Amendment Eff. January 14, 1992 for a period of 180 days to expire on July 11, 1992;
 Filed as a Temporary Amendment Eff. November 1, 1990 for a period of 180 days to expire on April 29, 1991;
 Statutory Authority G.S. 113A-52; 113A-54;
 Eff. November 1, 1984;
 Amended Eff. May 1, 1990;
 ARRC Objection Lodged November 14, 1990;
 ARRC Objection Removed December 20, 1990;
 Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(f)); October 1, 1995; April 1, 1992; January 1, 1991.

SUBCHAPTER 4B - EROSION AND SEDIMENT CONTROL

15A NCAC 04B .0101 AUTHORITY

History Note: Authority G.S. 113A-54; 113A-64;
 Eff. February 1, 1976;
 Repealed Eff. November 1, 1984.

15A NCAC 04B .0102 PURPOSE

15A NCAC 04B .0103 SCOPE

History Note: Authority G.S. 113A-54(a)(b);
 Eff. February 1, 1976;
 Amended Eff. November 1, 1984;

Repealed Eff. August 1, 1988.

15A NCAC 04B .0104 DEFINITIONS

*History Note: Authority G.S. 113A-52; 113A-54;
Eff. February 1, 1976;
Amended Eff. March 14, 1980; January 31, 1979; July 1, 1978;
Repealed Eff. November 1, 1984.*

15A NCAC 04B .0105 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 activities.

*History Note: Authority G.S. 113A-54(b); 113A-54(d)(2);
Eff. February 1, 1976;
Amended Eff. August 1, 1988; November 1, 1984.*

15A NCAC 04B .0106 BASIC CONTROL OBJECTIVES

(a) An erosion and sedimentation control plan may be disapproved pursuant to 15A NCAC 4B .0118 if the plan fails to address the following control objectives:

- (1) Identify Critical Areas. Identify site areas subject to severe erosion, and off-site areas especially vulnerable to damage from erosion and sedimentation.
- (2) Limit Exposed Areas. Limit the size of the area exposed at any one time.
- (3) Limit Time of Exposure. Limit exposure to the shortest feasible time.
- (4) Control Surface Water. Control surface water run-off originating upgrade of exposed areas in order to reduce erosion and sediment loss during exposure.
- (5) Control Sedimentation. All land-disturbing activity is to be planned and conducted so as to prevent off-site sedimentation damage.
- (6) Manage Storm Water Runoff. When the increased velocity of storm water runoff resulting from a land-disturbing activity causes accelerated erosion of the receiving watercourse, plans shall include measures to control the velocity to the point of discharge.

(b) When deemed necessary by the approving authority a preconstruction conference may be required.

*History Note: Authority G.S. 113A-54(d)(4); 113A-54.1;
Eff. February 1, 1976;
Amended Eff. July 1, 2000; February 1, 1992; May 1, 1990; November 1, 1984; March 14, 1980.*

15A NCAC 04B .0107 MANDATORY STANDARDS FOR LAND-DISTURBING ACTIVITY

- (a) No land-disturbing activity subject to these Rules shall be undertaken except in accordance with the G.S. 113A-57.
- (b) Pursuant to G.S. 113A-57(3), provisions for a ground cover sufficient to restrain erosion must be accomplished within 15 working days or 90 calendar days following completion of construction or development, whichever period is shorter, except as provided in 15A NCAC 4B .0124(e).
- (c) Pursuant to G.S. 113A-57(4) and 113A-54(d)(4), an erosion and sedimentation control plan must be both filed and approved by the agency having jurisdiction.

*History Note: Authority G.S. 113A-54(d)(4); 113A-57; 113A-57(3)(4);
Eff. February 1, 1976;
Amended Eff. July 1, 2000; May 1, 1990; August 1, 1988; November 1, 1984; March 14, 1980.*

15A NCAC 04B .0108 DESIGN AND PERFORMANCE STANDARD

Erosion and sedimentation control measures, structures, and devices shall be so planned, designed, and constructed to provide protection from the run off of that 10 year storm which produces the maximum peak rate of run off as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's

"National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.

*History Note: Authority G.S. 113A-54;
Eff. February 1, 1976;
Amended Eff. November 1, 1984; July 1, 1978.*

15A NCAC 04B .0109 STORM WATER OUTLET PROTECTION

(a) Persons shall conduct land disturbing activity so that the post construction velocity of the ten year storm run off in the receiving watercourse to the discharge point does not exceed the greater of:

- (1) the velocity established by the table in Paragraph (d) of this Rule; or
- (2) the velocity of the ten year storm run off in the receiving watercourse prior to development.

If conditions (1) or (2) of this Paragraph cannot be met, then the receiving watercourse to and including the discharge point shall be designed and constructed to withstand the expected velocity anywhere the velocity exceeds the "prior to development" velocity by ten percent.

(b) Acceptable Management Measures. The commission recognizes that management of storm water run off to control downstream erosion constitutes a developing technology and consequently invites the use of innovative techniques shown to produce successful results. Alternatives include:

- (1) Compensate for increased run off from areas rendered impervious by designing measures to promote infiltration.
- (2) Avoid increases in storm water discharge velocities by using vegetated or roughened swales and waterways in place of closed drains and paved sections.
- (3) Provide energy dissipators at storm drainage outlets to reduce flow velocities to the discharge points.
- (4) Protect watercourses subject to accelerated erosion by improving cross sections and/or providing erosion-resistant lining.

(c) Exceptions. This Rule shall not apply when storm water discharge velocities will not create an erosion problem in the receiving watercourse.

(d) The following table sets maximum permissible velocity for storm water discharges:

Material	Maximum Permissible Velocities For	
	F.P.S.	M.P.S.
Fine Sand (noncolloidal)	2.5	.8
Sandy Loam (noncolloidal)	2.5	.8
Silt Loam (noncolloidal)	3.0	.9
Ordinary Firm Loam	3.5	1.1
Fine Gravel	5.0	1.5
Stiff Clay (very colloidal)	5.0	1.5
Graded, Loam to Cobbles (noncolloidal)	5.0	1.5
Graded, Silt to Cobbles (colloidal)	5.5	1.7
Alluvial Silts (noncolloidal)	3.5	1.1
Alluvial Silts (colloidal)	5.0	1.5
Coarse Gravel (noncolloidal)	6.0	1.8
Cobbles and Shingles	5.5	1.7
Shales and Hard Pans	6.0	1.8

Source: Adapted from recommendations by Special Committee on Irrigation Research, American Society of Civil Engineers, 1926, for channels with straight alignment. For sinuous channels multiply allowable velocity by 0.95 for slightly sinuous, by 0.9 for moderately sinuous channels, and by 0.8 for highly sinuous channels.

*History Note: Authority G.S. 113A-54(b)(c);
Eff. February 1, 1976;
Amended Eff. February 1, 1992; May 1, 1990; November 1, 1984; July 1, 1978.*

15A NCAC 04B .0110 BORROW AND WASTE AREAS

If the same person conducts the land disturbing activity and any related borrow or waste activity, the related borrow or waste activity shall constitute part of the land disturbing activity unless the borrow or waste activity is regulated under the Mining Act of 1971, or is a landfill regulated by the Division of Solid Waste Management. If the land disturbing activity and any related borrow or waste activity are not conducted by the same person, they shall be considered separate land-disturbing activities.

History Note: Authority G.S. 74-67; 113A-54(b); 130A-166.21;
Eff. February 1, 1976;
Amended Eff. May 1, 1990; November 1, 1984.

15A NCAC 04B .0111 ACCESS AND HAUL ROADS

Temporary access and haul roads, other than public roads, constructed or used in connection with any land-disturbing activity shall be considered a part of such activity.

History Note: Authority G.S. 113A-54;
Eff. February 1, 1976.

15A NCAC 04B .0112 OPERATIONS IN LAKES OR NATURAL WATERCOURSES

Land disturbing activity in connection with construction in, on, over, or under a lake or natural watercourse shall minimize the extent and duration of disruption of the stream channel. Where relocation of a stream forms an essential part of the proposed activity, the relocation shall minimize unnecessary changes in the stream flow characteristics.

History Note: Authority G.S. 113A-54;
Eff. February 1, 1976;
Amended Eff. November 1, 1984.

15A NCAC 04B .0113 RESPONSIBILITY FOR MAINTENANCE

During the development of a site, the person conducting the land-disturbing activity shall install and maintain all temporary and permanent erosion and sedimentation control measures as required by the approved plan or any provision of the Act, these Rules, or any order or local ordinance adopted pursuant to the Act. After site development, the land owner or person in possession or control of the land shall install and/or maintain all necessary permanent erosion and sediment control measures, except those measures installed within a road or street right of way or easement accepted for maintenance by a governmental agency.

History Note: Authority G.S. 113A-54;
Eff. February 1, 1976;
Amended Eff. November 1, 1984; July 1, 1978.

15A NCAC 04B .0114 GUIDELINES FOR EROSION AND SEDIMENT CONTROL PRACTICES

History Note: Authority G.S. 113A-54; 113A-64;
Eff. February 1, 1976;
Repealed Eff. November 1, 1984.

15A NCAC 04B .0115 ADDITIONAL MEASURES

Whenever the commission or a local government determines that significant erosion and sedimentation continues despite the installation of protective practices, the person conducting the land disturbing activity will be required to and shall take additional protective action.

History Note: Authority G.S. 113A-54(b);
Eff. February 1, 1976;
Amended Eff. November 1, 1984.

15A NCAC 04B .0116 EXISTING UNCOVERED AREAS

*History Note: Authority G.S. 113A-54;
Eff. February 1, 1976;
Amended Eff. October 1, 1995; February 1, 1992; May 1, 1990; November 1, 1984;
Expired Eff. March 1, 2016 pursuant to G.S. 150B-21.3A.*

15A NCAC 04B .0117 STATEMENT OF FINANCIAL RESPONSIBILITY AND OWNERSHIP

*History Note: Authority G.S. 113A-54(b);
Eff. February 1, 1976;
Amended Eff. November 1, 1984;
Repealed Eff. May 1, 1990.*

15A NCAC 04B .0118 APPROVAL OF PLANS

(a) Persons conducting land-disturbing activity on a tract which covers one or more acres shall file three copies of the erosion and sedimentation control plan with the local government having jurisdiction or with the Commission if no local government has jurisdiction, at least 30 days prior to beginning such activity and shall keep another copy of the plan on file at the job site. After approving a plan, if the Commission or local government determines, either upon review of such plan or on inspection of the job site, that a significant risk of accelerated erosion or off-site sedimentation exists, the Commission or local government shall require a revised plan. Pending the preparation of the revised plan, work shall cease or shall continue under conditions outlined by the appropriate authority.

(b) Commission Approval:

- (1) The Commission shall review plans for all land-disturbing activity over which the Commission has exclusive jurisdiction by statute and all other land-disturbing activity if no local government has jurisdiction.
- (2) The Commission shall complete its review of any completed plan within 30 days of receipt and shall notify the person submitting the plan in writing that it has been:
 - (A) approved,
 - (B) approved with modification,
 - (C) approved with performance reservations, or
 - (D) disapproved.
- (3) The Commission's disapproval, modification, or performance reservations of any proposed plan, shall entitle the person submitting the plan to an administrative hearing in accordance with the provisions of G.S. 150B-23. (This Section does not modify any other rights to a contested case hearing which may arise under G.S. 150B-23).
- (4) Subparagraph (b)(3) of this Rule shall not apply to the approval or modification of plans reviewed by the Commission pursuant to G.S. 113A-61(c).
- (5) Any plan submitted for a land-disturbing activity for which an environmental document is required by the North Carolina Environmental Policy Act shall be deemed incomplete until a complete environmental document is available for review. The Commission shall promptly notify the person submitting the plan that the 30 day time limit for review of the plan pursuant to Subparagraph (b)(2) of this Rule shall not begin until a complete environmental document is available for review.

(c) Erosion and sedimentation control plans may also be disapproved unless they include an authorized statement of financial responsibility and ownership. This statement shall be signed by the person financially responsible for the land-disturbing activity or his attorney in fact. The statement shall include the mailing and street addresses of the principal place of business of the person financially responsible and of the owner of the land or their registered agents.

(d) Local Government Approval:

- (1) Local Governments administering erosion and sedimentation control programs shall develop and publish procedures for approval of plans. Such procedures shall respect applicable laws,

ordinances, and rules, and shall contain procedures for appeal consistent with the local government's organization and operations.

- (2) The secretary shall appoint such employee(s) of the Department as he deems necessary to consider appeals from the local government's final disapproval or modification of a plan. Within 30 days following receipt of notification of the appeal, such departmental employee shall complete the review and shall notify the local government and the person appealing the local government's decision that the plan should be approved, approved with modifications, approved with performance reservations, or disapproved.
- (3) If either the local government or the person submitting the plan disagrees with the decision reached by an employee of the Department then he may appeal the decision to the Commission by filing notice within 15 days with the Director of the Division of Energy, Mineral, and Land Resources. The director shall make the proposed erosion control plan and the records relating to the local government's and departmental employees' review, available to an appeals review committee consisting of three members of the Commission appointed by the chairman. Within 10 days following receipt of the notification of appeal, the appeals review committee shall notify the local government and the person submitting the plan of a place and time for consideration of the appeal, and shall afford both parties an opportunity to present written or oral arguments. The appeals review committee shall notify both parties of its decision concerning the approval, disapproval, or modification of the proposed plan within 30 days following such hearing.

(e) The applicant's right under G.S. 113A-54.1(d) to appeal the Director's disapproval of an erosion control plan under G.S. 113A-54.1(c) gives rise to a right to a contested case under G.S. 150B, Article 3. An applicant desiring to appeal the Director's disapproval of an erosion control plan shall file with the Office of Administrative Hearings a contested case petition under G.S. 150B, Article 3. The general time limitation for filing a petition, and the commencement of the time limitation, shall be as set out in G.S. 150B-23(f). Contested cases shall be conducted under the procedures of G.S. 150B, Article 3 and applicable rules of the Office of Administrative Hearings. The Commission shall make the final decision on any contested case under G.S. 150B-36.

History Note: Filed as a Temporary Amendment Eff. January 14, 1992 for a period of 180 days to expire on July 11, 1992;
Statutory Authority G.S. 113A-2; 113A-54; 113A-54.1; 113A-60(a); 113A-61(b); 113A-61(c); 150B, Article 3; 150B-23;
Eff. February 1, 1976;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(f)); June 1, 1995; February 1, 1992; May 1, 1990; August 1, 1988.

15A NCAC 04B .0119 COMPLIANCE WITH PLAN REQUIREMENT

History Note: Authority G.S. 113A-54(b);
Eff. February 1, 1976;
Amended Eff. November 1, 1984;
Repealed Eff. August 1, 1988.

15A NCAC 04B .0120 INSPECTIONS AND INVESTIGATIONS

- (a) The Commission, Department of Environment, Health, and Natural Resources or local government may require written statements, or the filing of reports under oath, concerning land disturbing activity.
- (b) Inspection of sites shall be carried out by the staff of Department of Environment, Health, and Natural Resources or other qualified persons authorized by the Commission or Department of Environment, Health, and Natural Resources as necessary to carry out its duties under the Act.
- (c) No person shall refuse entry or access to any representative of the Commission or any representative of a local government who requests entry for purposes of inspection.

History Note: Authority G.S. 113A-54(b); 113A-58; 113A-61.1;
Eff. February 1, 1976;

Amended Eff. October 1, 1995; May 1, 1990; November 1, 1984.

15A NCAC 04B .0121 PENALTIES

*History Note: Authority G.S. 113A-54; 113A-64;
Eff. February 1, 1976;
Repealed Eff. November 1, 1984.*

15A NCAC 04B .0122 SEVERABILITY CLAUSE

If any of these provisions are held invalid or unenforceable, all of the other provisions shall nevertheless continue in full force and effect.

*History Note: Authority G.S. 113A-54;
Eff. February 1, 1976;
Amended Eff. November 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016.*

15A NCAC 04B .0123 EFFECTIVE DATE

*History Note: Authority G.S. 113A-54(b);
Eff. February 1, 1976;
Amended Eff. November 1, 1984; November 15, 1976;
Repealed Eff. August 1, 1988.*

15A NCAC 04B .0124 DESIGN STANDARDS IN SENSITIVE WATERSHEDS

- (a) Uncovered areas in HQW zones shall be limited at any time to a maximum total area within the boundaries of the tract of 20 acres. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this Rule. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director.
- (b) Erosion and sedimentation control measures, structures, and devices within HQW zones shall be so planned, designed and constructed to provide protection from the runoff of the 25 year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agricultural Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
- (c) Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least 70 percent for the 40 micron (0.04mm) size soil particle transported into the basin by the runoff of that two-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Services "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
- (d) Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.
- (e) Pursuant to G.S. 113A-57(3) provisions for a ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within 15 working days or 60 calendar days following completion of construction or development, whichever period is shorter.

*History Note: Authority G.S. 113A-54(b); 113A-54(c)(1);
Eff. May 1, 1990.*

15A NCAC 04B .0125 BUFFER ZONE REQUIREMENTS

- (a) Unless otherwise provided, the width of a buffer zone is measured from the edge of the water to the nearest edge of the disturbed area, with the 25 percent of the strip nearer the land-disturbing activity containing natural or artificial means of confining visible siltation.
- (b) The 25 foot minimum width for an undisturbed buffer zone adjacent to designated trout waters shall be measured horizontally from the top of the bank.
- (c) Where a temporary and minimal disturbance is permitted as an exception by G.S. 113A-57(1), land-disturbing activities in the buffer zone adjacent to designated trout waters shall be limited to a maximum of ten percent of the total length of the buffer zone within the tract to be distributed such that there is not more than 100 linear feet of disturbance in each 1000 linear feet of buffer zone. Larger areas may be disturbed with the written approval of the Director.
- (d) No land-disturbing activity shall be undertaken within a buffer zone adjacent to designated trout waters that will cause adverse temperature fluctuations, as set forth in 15A NCAC 2B .0211 "Fresh Surface Water Classification and Standards", in these waters.

History Note: Authority G.S. 113A-54(b); 113A-54(c)(1); 113A-57(1);
Eff. May 1, 1990;
Amended Eff. February 1, 1992.

15A NCAC 04B .0126 PLAN REVIEW FEE

- (a) A nonrefundable plan review processing fee, in the amount stated in Paragraph (e) of this Rule, shall be paid when an erosion and sedimentation control plan is filed in accordance with 15A NCAC 04B .0118.
- (b) Each plan shall be deemed incomplete until the plan review processing fee is paid.
- (c) The plan review processing fee shall be based on the number of acres, or any part of an acre, of disturbed land shown on the plan.
- (d) No plan review processing fee shall be charged for review of a revised plan unless the revised plan contains an increase in the number of acres to be disturbed. If the revised plan contains an increase in the number of acres to be disturbed, the plan review processing fee to be charged shall be the amount stated in Paragraph (e) of the Rule for each additional acre (or any part thereof) disturbed.
- (e) The nonrefundable plan review processing fee shall be fifty dollars (\$50.00) for each acre or part of any acre of disturbed land.
- (f) Payment of the plan review processing fee may be by check or money order made payable to the "N.C. Department of Environment and Natural Resources". The payment shall refer to the erosion and sedimentation control plan.

History Note: Authority G.S. 113A-54; 113A-54.2;
Filed as a Temporary Rule Eff. November 1, 1990, for a period of 180 days to expire on April 29, 1991;
AARC Objection Lodged November 14, 1990;
AARC Objection Removed December 20, 1990;
Eff. January 1, 1991;
Amended Eff. August 1, 2002; July 1, 2000.

15A NCAC 04B .0127 PLAN APPROVAL CERTIFICATE

- (a) Approval of a sedimentation and erosion control plan will be contained in a document called "Certificate of Plan Approval" to be issued by the Commission.
- (b) The Certificate of Plan Approval must be posted at the primary entrance of the job site before construction begins.
- (c) No person may initiate a land-disturbing activity until notifying the agency that issued the Plan Approval of the date that the land-disturbing activity will begin.

History Note: Filed as a Temporary Rule Eff. November 1, 1990, for a period of 180 days to expire on April 29, 1991;
Authority G.S. 113A-54(b);
ARRC Objection Lodged November 14, 1990;
ARRC Objection Removed December 20, 1990;
Eff. January 1, 1991;

Amended Eff. July 1, 2000.

15A NCAC 04B .0128 RAILROAD COMPANIES

*History Note: Authority G.S. 113A-52(6); 113A-54(b); 113A-54(c); 113A-54(d)(4); 113A-57(1);
Eff. August 1, 1995;
Expired Eff. March 1, 2016 pursuant to G.S. 150B-21.3A.*

15A NCAC 04B .0129 EROSION CONTROL PLAN EXPIRATION DATE

An erosion control plan shall expire three years following the date of approval, if no land-disturbing activity has been undertaken.

*History Note: Authority G.S. 113A-54.1(a);
Eff. October 1, 1995.*

15A NCAC 04B .0130 EMERGENCIES

Any person who conducts an emergency repair essential to protect human life, that constitutes a land-disturbing activity within the meaning of G.S. 113A-52(6) and these Rules:

- (1) shall notify the Commission of such repair as soon as reasonably possible, but in no event later than five working days after the emergency ends; and
- (2) shall take all reasonable measures to protect all public and private property from damage caused by such repair as soon as reasonably possible, but in no event later than 15 working days after the emergency ends.

*History Note: Authority G.S. 113A-52.01(4); 113A-54(b);
Eff. October 1, 1995.*

15A NCAC 04B .0131 SELF-INSPECTIONS

Where inspections are required by G.S. 113A-54.1(e), the following apply:

- (1) The person who performs the inspection shall make a record of the site inspection by documenting the following items:
 - (a) all of the erosion and sedimentation control measures, practices and devices, as called for in a construction sequence consistent with the approved erosion and sedimentation control plan, including but not limited to sedimentation control basins, sedimentation traps, sedimentation ponds, rock dams, temporary diversions, temporary slope drains, rock check dams, sediment fence or barriers, all forms of inlet protection, storm drainage facilities, energy dissipaters, and stabilization methods of open channels, have initially been installed and do not significantly deviate (as defined in Sub-item (1)(e) of this Rule) from the locations, dimensions and relative elevations shown on the approved erosion and sedimentation plan. Such documentation shall be accomplished by initialing and dating each measure or practice shown on a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report that lists each measure, practice or device shown on the approved erosion and sedimentation control plan. This documentation is required only upon the initial installation of the erosion and sedimentation control measures, practices and devices as set forth by the approved erosion and sedimentation control plan or if the measures, practices and devices are modified after initial installation;
 - (b) the completion of any phase of grading for all graded slopes and fills shown on the approved erosion and sedimentation control plan, specifically noting the location and condition of the graded slopes and fills. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;
 - (c) the location of temporary or permanent ground cover, and that the installation of the ground cover does not significantly deviate (as defined in Sub-item (1)(e) of this Rule) from the approved erosion and sedimentation control plan. Such documentation shall be

- accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report;
- (d) that maintenance and repair requirements for all temporary and permanent erosion and sedimentation control measures, practices and devices have been performed. Such documentation shall be accomplished by completing, dating and signing an inspection report (the general storm water permit monitoring form may be used to verify the maintenance and repair requirements); and
 - (e) any significant deviations from the approved erosion and sedimentation control plan, corrective actions required to correct the deviation and completion of the corrective actions. Such documentation shall be accomplished by initialing and dating a copy of the approved erosion and sedimentation control plan or by completing, dating and signing an inspection report. A significant deviation means an omission, alteration or relocation of an erosion or sedimentation control measure that prevents the measure from performing as intended.
- (2) The documentation, whether on a copy of the approved erosion and sedimentation control plan or an inspection report, shall include the name, address, affiliation, telephone number, and signature of the person conducting the inspection and the date of the inspection. Any relevant licenses and certifications may also be included. Any documentation of inspections that occur on a copy of the approved erosion and sedimentation control plan shall occur on a single copy of the plan and that plan shall be made available on the site. Any inspection reports shall also be made available on the site.
- (3) The inspection shall be performed during or after each of the following phases of a plan:
- (a) installation of perimeter erosion and sediment control measures;
 - (b) clearing and grubbing of existing ground cover;
 - (c) completion of any phase of grading of slopes or fills that requires provision of temporary or permanent ground cover pursuant to G.S. 113A-57(2);
 - (d) completion of storm drainage facilities;
 - (e) completion of construction or development; and
 - (f) quarterly until the establishment of permanent ground cover sufficient to restrain erosion or until the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved and the agency that approved the plan has been notified. If the financially responsible party has conveyed ownership or control of the tract of land for which the erosion and sedimentation control plan has been approved, the new owner or person in control shall conduct and document inspections quarterly until the establishment of permanent ground cover sufficient to restrain erosion.

History Note: Authority G.S. 113A-54; 113A-54.1(e);
Eff. October 1, 2010.

15A NCAC 04B .0132 DESIGN STANDARDS FOR THE UPPER NEUSE RIVER BASIN (FALLS LAKE WATERSHED)

In addition to any other requirements of State, federal, and local law, land-disturbing activity in the watershed of the drinking water supply reservoir that meets the applicability requirements of Session Law 2009-486, Section 3.(a), shall meet all of the following design standards for sedimentation and erosion control:

- (1) Erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the runoff of the 25-year storm that produces the maximum peak rate of runoff as calculated according to procedures set out in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States.
- (2) Sediment basins shall be planned, designed, and constructed so that the basin will have a settling efficiency of at least 70 percent for the 40-micron size soil particle transported into the basin by the runoff of the two-year storm that produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States.

- (3) Newly constructed open channels shall be planned, designed, and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization unless soil conditions permit steeper side slopes or where the side slopes are stabilized by using mechanical devices, structural devices, or other ditch liners sufficient to restrain accelerated erosion. The angle for side slopes shall be sufficient to restrain accelerated erosion.
- (4) For an area of land-disturbing activity where grading activities have been completed, temporary or permanent ground cover sufficient to restrain erosion shall be provided as soon as practicable, but in no case later than seven days after completion of grading. For an area of land-disturbing activity where grading activities have not been completed, temporary ground cover shall be provided as follows:
 - (a) For an area with no slope, temporary ground cover shall be provided for the area if it has not been disturbed for a period of 14 days.
 - (b) For an area of moderate slope, temporary ground cover shall be provided for the area if it has not been disturbed for a period of 10 days. For purposes of this Item, "moderate slope" means an inclined area, the inclination of which is less than or equal to three units of horizontal distance to one unit of vertical distance.
 - (c) For an area of steep slope, temporary ground cover shall be provided for the area if it has not been disturbed for a period of seven days. For purposes of this Item, "steep slope" means an inclined area, the inclination of which is greater than three units of horizontal distance to one unit of vertical distance.

History Note: Authority S.L. 2009-486;
Eff. February 1, 2012.

–

SUBCHAPTER 4C - SEDIMENTATION CONTROL CIVIL PENALTIES

15A NCAC 04C .0101 PURPOSE AND SCOPE

History Note: Authority G.S. 113A-54(b); 113A-64(a);
Eff. February 1, 1976;
Amended Eff. November 1, 1984; October 5, 1980;
Repealed Eff. August 1, 1988.

15A NCAC 04C .0102 DEFINITIONS

History Note: Authority G.S. 143B-10;
Eff. February 1, 1976;
Amended Eff. January 31, 1979; September 3, 1976;
Repealed Eff. November 1, 1984.

15A NCAC 04C .0103 WHO MAY ASSESS

The director may assess civil penalties against any person responsible for a violation.

History Note: Authority G.S. 113A-55; 113A-64; 143B-10;
Eff. February 1, 1976;
Amended Eff. November 1, 1984.

15A NCAC 04C .0104 WHEN ASSESSABLE

History Note: Authority G.S. 113A-64;
Eff. February 1, 1976;

Amended Eff. November 1, 1984;
Repealed Eff. August 1, 1988.

15A NCAC 04C .0105 AMOUNT OF ASSESSMENT

History Note: Authority G.S. 113A-64;
Eff. February 1, 1976;
Repealed Eff. November 1, 1984.

15A NCAC 04C .0106 CRITERIA

In determining the amount of the civil penalty assessment, the director shall consider the following criteria:

- (1) severity of the violation,
- (2) degree and extent of the harm,
- (3) type of violation,
- (4) duration,
- (5) cause,
- (6) extent of any off-site damage which may have resulted,
- (7) effectiveness of action taken by violator,
- (8) adherence to plan submitted by violator,
- (9) effectiveness of plan submitted by violator,
- (10) cost of rectifying any damage,
- (11) the violator's previous record in complying with rules of the commission,
- (12) estimated cost of installing and/or maintaining corrective sediment control measures, and
- (13) staff investigative costs.

History Note: Authority G.S. 113A-54(b); 113A-55; 113A-64(a);
Eff. February 1, 1976;
Amended Eff. November 1, 1984; April 1, 1978.

15A NCAC 04C .0107 PROCEDURES: NOTICES

(a) The notice of violation shall describe the violation with reasonable particularity, request that all illegal activity cease, and inform the violator that a civil penalty may be assessed pursuant to G.S. 113A-64. If particular actions need to be taken to comply with the Sedimentation Pollution Control Act, the notice shall specify the actions to be taken, shall specify a time period for compliance, and shall state that upon failure to comply within the allotted time the person shall become subject to the assessment of a civil penalty for each day of the continuing violation beginning with the date of the violation.

(b) The stop work order provided in G.S. 113A-65.1 shall serve as the notice of violation for purposes of the assessment of a civil penalty pursuant to G.S. 113A-64(a)(1). Copies of the stop work order shall be served upon persons the Department has reason to believe may be responsible for the violation by any means authorized under G.S. 1A-1, Rule 4.

History Note: Filed as a Temporary Amendment Eff. January 14, 1992 for a period of 180 days to expire on July 11, 1992;
Authority G.S. 113A-54; 113A-61.1; 113A-64; 113A-65.1; 143B-10;
Eff. February 1, 1976;
Amended Eff. August 1, 2000; October 1, 1995; April 1, 1992; May 1, 1990; November 1, 1984;
Temporary Amendment Eff. August 1, 2000;
Amended Eff. April 1, 2001.

15A NCAC 04C .0108 REQUESTS FOR ADMINISTRATIVE HEARING

After receipt of notification of any assessment, the assessed person must select one of the following options within 30 days:

- (1) tender payment; or
- (2) file a petition for an administrative hearing in accordance with G.S. 150B-23.

History Note: Authority G.S. 113A-64; 143B-10; 150B-23;
Eff. February 1, 1976;
Amended Eff. October 1, 1995; October 1, 1988; October 5, 1980; April 1, 1978.

15A NCAC 04C .0109 TENDER OF PAYMENT

History Note: Authority G.S. 113A-55; 143B-10;
Eff. February 1, 1976;
Amended Eff. October 5, 1980; April 1, 1978;
Expired Eff. March 1, 2016 pursuant to G.S. 150B-21.3A.

15A NCAC 04C .0110 ADMINISTRATIVE HEARING

Administrative hearings shall be conducted in accordance with the procedures outlined in G.S. 150B-22 et seq. and the contested case procedures in 15A NCAC 1B .0200.

History Note: Authority G.S. 113A-55; 150B-22 et seq.;
Eff. February 1, 1976;
Amended Eff. October 1, 1995; August 1, 1988; November 1, 1984; October 5, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016.

15A NCAC 04C .0111 FURTHER REMEDIES

No provision of this Subchapter shall be construed to restrict or impair the right of the secretary, the director, or the Sedimentation Control Commission to pursue any other remedy provided by law for violations of the Sedimentation Pollution Control Act.

History Note: Authority G.S. 113A-54; 113A-60; 113A-64 through 113A-66;
Eff. February 1, 1976;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016.

SUBCHAPTER 4D - LOCAL ORDINANCES

15A NCAC 04D .0101 SUBMISSION AND APPROVAL OF PROPOSED LOCAL ORDINANCES

History Note: Authority G.S. 113A-54; 113A-60;
Eff. February 1, 1976;
Repealed Eff. August 1, 1988.

15A NCAC 04D .0102 MODEL ORDINANCE

The commission has adopted a model ordinance. Local governmental units wishing to establish a local erosion and sedimentation control program may obtain a copy of the model ordinance upon writing to:

North Carolina Department of Environment, Health, and Natural Resources
Land Quality Section
P.O. Box 27687
Raleigh, North Carolina 27611

History Note: Authority G.S. 113A-54(d); 113A-60;
Eff. February 1, 1976;
Amended Eff. March 14, 1980; February 23, 1979;
Summary Rule Filed January 26, 1982;

Amended Eff. October 1, 1995; May 1, 1990; August 1, 1988; November 1, 1984.

15A NCAC 04D .0103 REVISIONS TO APPROVED LOCAL ORDINANCES

*History Note: Authority G.S. 113A-54(d); 113A-60;
Eff. May 1, 1990;
Amended Eff. January 4, 1993;
Repealed Eff. October 1, 1995.*

SUBCHAPTER 04E - RULEMAKING PROCEDURES

SECTION .0100 - GENERAL PROVISIONS

15A NCAC 04E .0101 GENERAL PURPOSE

Rules at 15A NCAC 1B .0100 are adopted by reference and with the rules of this Subchapter shall govern rule-making hearings conducted under the purview of the commission.

*History Note: Authority G.S. 113A-54; 113A-55; 150B;
Eff. March 14, 1980;
Amended Eff. November 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016.*

15A NCAC 04E .0102 DEFINITIONS

As used in this Subchapter:

- (1) "Commission" means the North Carolina Sedimentation Control Commission.
- (2) "Director" means the Director of the Division of Energy, Mineral, and Land Resources of the Department of Environment, Health, and Natural Resources.

*History Note: Authority G.S. 113A-54; 113A-55;
Eff. March 14, 1980;
Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(f)); May 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016.*

15A NCAC 04E .0103 ADDRESS

*History Note: Authority G.S. 113A-54;
Eff. March 14, 1980;
Repealed Eff. November 1, 1984.*

15A NCAC 04E .0104 COPIES OF RULES: INSPECTION

(a) Anyone desiring to obtain a copy of any or all of the rules of the commission may do so by requesting such from the director at the address of the commission as set forth at Rule .0001 of Subchapter A of this Chapter. The request must specify the rules requested, for example, 15A NCAC 4, Sedimentation Control, or 15A NCAC 4E, Rulemaking Procedures. The director may charge reasonable fees to recover mailing and duplication costs for requests of more than one copy of the same rule(s).

(b) The rules of the commission (15A NCAC 4) and other documents specified in G.S. 150B-11 are available for public inspection at the Office of the Director (P.O. Box 27687, 512 N. Salisbury Street, Raleigh, N.C. 27611) during regular office hours.

*History Note: Authority G.S. 113A-54; 113A-55; 150B-11;
Eff. March 14, 1980;*

Amended Eff. August 1, 1988; November 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016.

15A NCAC 04E .0105 DELEGATIONS OF AUTHORITY TO THE DIRECTOR

History Note: Authority G.S. 113A-54; 113A-55; 150B;
Eff. March 14, 1980;
Amended Eff. November 1, 1984; June 5, 1981;
Repealed Eff. August 1, 1988.

SECTION .0200 - PETITIONS FOR RULEMAKING

15A NCAC 04E .0201 PETITION FOR RULEMAKING HEARINGS

Any person wishing to submit a petition requesting the adoption, amendment, or repeal of a rule by the commission shall forward the petition to the director at the address of the commission in Rule .0001 of Subchapter A of this Chapter. The first page of the petition should clearly bear the notation: RULEMAKING PETITION RE and then the subject area (for example, RE PLAN REQUIREMENTS, RE PENALTIES, RE INSPECTIONS) or an indication of any other area over which the commission may have rulemaking authority.

History Note: Authority G.S. 113A-54; 150B-16;
Eff. March 14, 1980;
Amended Eff. November 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016.

15A NCAC 04E .0202 CONTENTS OF PETITION

History Note: Authority G.S. 113A-54; 150B-16;
Eff. March 14, 1980;
Repealed Eff. November 1, 1984.

15A NCAC 04E .0203 DISPOSITION OF PETITIONS

(a) The director will determine whether the petition contains sufficient information for the commission to determine whether the public interest will be served by granting the request. The director may request additional information from the petitioner(s), he may contact interested persons or persons likely to be affected by the proposed rule and request comments, and he may use any other appropriate method for obtaining additional information.

(b) The commission will render a decision within 30 days after the petition is submitted. If the decision is to grant the petition, the director, within 30 days of submission, will initiate a rulemaking proceeding. If the decision is to deny the petition, the director will notify the petitioner(s) in writing, stating the reasons therefor.

(c) If the commission is not scheduled to meet within 30 days of submission of a petition the director may either:

- (1) accept the petition and initiate a rulemaking proceeding; or
- (2) Ask the chairman of the commission to call a special meeting of the commission so that a decision can be made by the commission within the 30 day time period required by 150B-16 and in accordance with the procedures set out in (b) of this Rule.

History Note: Authority G.S. 113A-54; 113A-55; 150B-16;
Eff. March 14, 1980;
Amended Eff. August 1, 1988; November 1, 1984; June 5, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016.

SECTION .0300 - NOTICE OF RULEMAKING HEARINGS

15A NCAC 04E .0301 TIMING OF NOTICE

History Note: Authority G.S. 113A-54; 150B-12;
Eff. March 14, 1980;
Repealed Eff. November 1, 1984.

15A NCAC 04E .0302 NOTICE MAILING LIST

History Note: Authority G.S. 113A-54; 150B-12(b);
Eff. March 14, 1980;
Amended Eff. November 1, 1984;
Repealed Eff. August 1, 1988.

15A NCAC 04E .0303 ADDITIONAL INFORMATION

History Note: Authority G.S. 113A-54; 150B-12;
Eff. March 14, 1980;
Repealed Eff. November 1, 1984.

SECTION .0400 - RULEMAKING HEARINGS

15A NCAC 04E .0401 REQUEST TO PARTICIPATE

15A NCAC 04E .0402 CONTENTS OF REQUEST: GENERAL TIME LIMITATIONS

History Note: Authority G.S. 113A-54; 150B-12(d),(e);
Eff. March 14, 1980;
Repealed Eff. November 1, 1984.

15A NCAC 04E .0403 WRITTEN SUBMISSIONS

- (a) Any person may file a written submission containing data, comments, or arguments after distribution or publication of a rulemaking notice until the day of the hearing, unless a longer period has been prescribed in the notice or granted upon request. These written comments should be sent to the director at the address of the commission.
- (b) The first page of any written submission shall clearly identify the rulemaking proceeding or proposed rule to which the comments are addressed and include a statement of the position of the person making the submission (for example, "In support of adopting proposed Rule .0000," "In opposition to adopting proposed Rule .0000").
- (c) Upon receipt of written comments, acknowledgment will be made with an assurance that the comments therein will be considered fully by the commission.

History Note: Authority G.S. 113A-54; 150B-12(e);
Eff. March 14, 1980;
Amended Eff. June 5, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016.

15A NCAC 04E .0404 PRESIDING OFFICER: POWERS AND DUTIES

History Note: Authority G.S. 113A-54; 150B-12;
Eff. March 14, 1980;
Repealed Eff. November 1, 1984.

15A NCAC 04E .0405 STATEMENT OF REASONS FOR DECISION

- (a) Any interested person desiring a concise statement of the principal reasons for and against the adoption of a rule by the commission and the factors that led to overruling the considerations urged for or against its adoption may submit a request to the director of the address of the commission.
- (b) The request must be made in writing and submitted prior to adoption of the rule or within 30 days thereafter.

History Note: Authority G.S. 113A-54; 150B-12(e);
Eff. March 14, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016.

15A NCAC 04E .0406 RECORD OF PROCEEDINGS

A record of all rulemaking proceedings will be maintained by the director for as long as the rule is in effect, and for five years thereafter, following filing with the Office of Administrative Hearings. Record of rulemaking proceedings will be available for public inspection during the hours of 8:30 AM to 5:30 PM on workdays.

History Note: Authority G.S. 113A-54; 150B-11(2);
Eff. March 14, 1980;
Amended Eff. August 1, 1988; November 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016.

SECTION .0500 - DECLARATORY RULINGS

15A NCAC 04E .0501 SUBJECTS OF DECLARATORY RULINGS

Any person aggrieved by a statute administered or rule promulgated by the commission may request a declaratory ruling as to either the manner in which a statute or rule applies to a given factual situation, if at all, or whether a particular agency rule is valid. For purposes of this Section, an aggrieved person means a person substantially affected by a statute administered by the commission or a rule promulgated by the commission.

History Note: Authority G.S. 113A-54; 150B-17;
Eff. March 14, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016.

15A NCAC 04E .0502 SUBMISSION OF REQUEST FOR RULING

All requests for declaratory rulings shall be written and mailed to the director at the address of the commission. The first page of the request should bear the notation: REQUEST FOR DECLARATORY RULING. The request must include the following information:

- (1) name and address of petitioner;
- (2) statute or rule to which petition relates;
- (3) concise statement of the manner in which petitioner is aggrieved by the rule or statute or its potential application to him;
- (4) a statement of whether an oral hearing is desired and, if so, the reason therefor.

History Note: Authority G.S. 113A-54; 150B-17;
Eff. March 14, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016.

15A NCAC 04E .0503 DISPOSITION OF REQUESTS

- (a) Upon receiving a request, the director is authorized to initiate a declaratory ruling proceeding to receive information concerning the request. A declaratory ruling proceeding may consist of written submissions, an oral hearing, or other procedures as may be appropriate in the circumstances of the particular request. If the proceeding takes the form of an oral hearing the director may direct that the proceeding take place before the commission.
- (b) The director will compile the information collected in the proceeding, along with other relevant information, in a recommendation to the commission on whether to issue the ruling and what the ruling should be.
- (c) A decision whether to issue the ruling will be made by the commission at the next regularly scheduled meeting of the commission within the 60 day period required by 150B-17 and after the director's recommendation is presented. If no meeting is scheduled within that time period, the director will ask the chairman of the commission to call a special meeting so that the commission can comply with the requirements of G.S. 150B-17.

(d) If the decision of the commission is to issue the ruling, the ruling will be issued by the commission with the 60 day period required by G.S. 150B-17. If necessary, the chairman of the commission will call a special meeting so that the commission can comply with this requirement.

(e) If the decision of the commission is to deny the request, the director will notify the petitioner(s) in writing stating the reasons therefor.

(f) For purposes of this Rule, the commission will ordinarily refuse to issue a declaratory ruling:

- (1) unless the rule is unclear on its face;
- (2) unless the petitioner shows that the circumstances are so changed since the adoption of the rule that such a ruling would be warranted;
- (3) unless the petitioner shows that the agency did not give to the factors specified in the request for a declaratory ruling a full consideration at the time the rule was issued;
- (4) where there has been a similar controlling factual determination in a contested case or where the factual context being raised for a declaratory ruling was specifically considered upon the adoption of the rule or directive being questioned, as evidenced by the rulemaking record; or
- (5) where the subject matter of the request is involved in pending litigation in any state or federal court in North Carolina.

History Note: Authority G.S. 113A-54; 113A-55; 150B-17;
Eff. March 14, 1980;
Amended Eff. August 1, 1988; June 5, 1981;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016.

15A NCAC 04E .0504 RECORD OF DECISION

A record of all declaratory rulemaking proceedings will be maintained in the director's office for as long as the ruling is in effect and for five years thereafter. This record will contain: the petition, the notice, all written submissions filed in the request, whether filed by the petitioner or any other person, and a record or summary of oral presentations, if any. Records of declaratory rulemaking proceedings will be available for public inspection during the regular office hours of the director.

History Note: Authority G.S. 113A-54; 150B-11;
Eff. March 14, 1980;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. February 2, 2016.