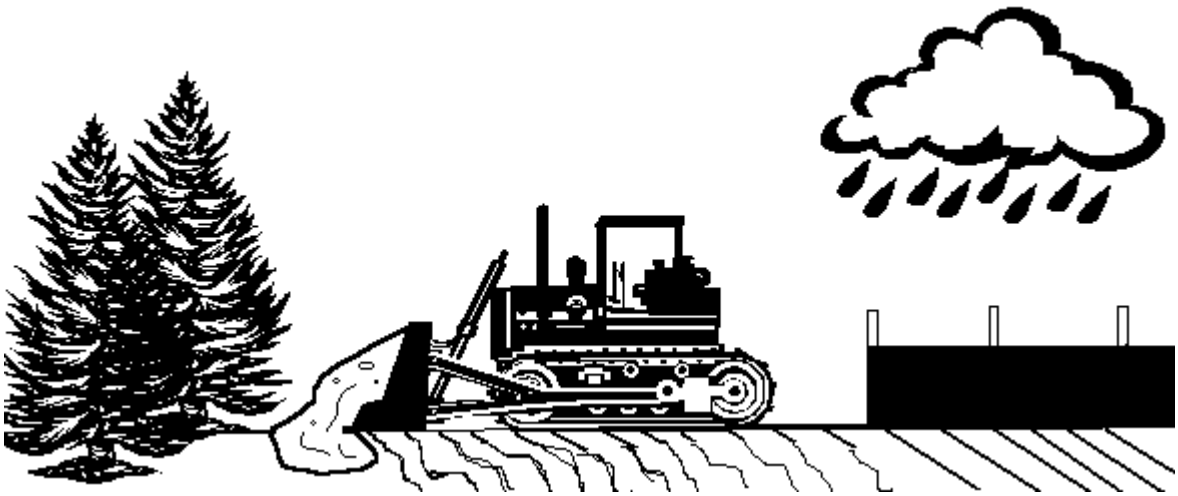
Erosion & Sediment Control
Inspector Packet



Land Quality Section

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- **NC Administrative Code Title 15A Chapter 4**

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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

Site Inspection Overview

The Inspector and the Law

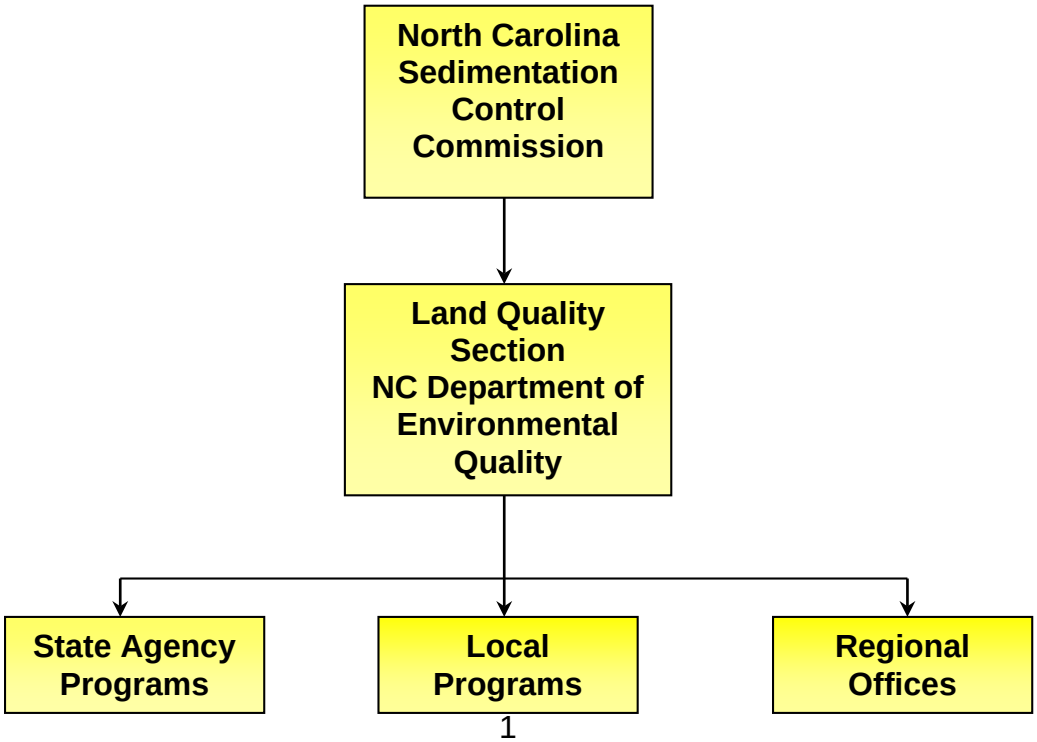
Five Mandatory Standards of the SPCA

1. Plan must be approved prior to disturbing 1 acre or greater
2. Buffer Zones must be provided along all natural watercourses and lakes
3. Disturbed areas must be able to be stabilized by vegetation or other suitable method
4. All sediment must be retained on-site for land-disturbances
5. Approved erosion and sediment control plan must be followed

Sedimentation Control Rules

- Identify critical areas
- Limit exposed areas
- Limit time of exposure
- Control surface water
- Control sedimentation
- Manage storm water runoff

Erosion and Sediment Control Program Structure



Inspector's Responsibilities

- Determine that an Erosion and Sediment Control (E&SC) plan for the site has been approved
- Determine that all specified practices have been installed and are being maintained according to the plan
- Determine that off-site sedimentation is being prevented

Principles of Erosion and Sediment Control

Coordinating and Scheduling Construction

- Plan construction activities in phases to reduce areas that are exposed
- Plan installation of E&SC measures and practices before major construction begins

Protect the Land Surface from Erosion

- Reduce duration of exposure
- Direct runoff away from graded slopes
- Establish or protect buffers around streams, lakes and other watercourses
- Use temporary vegetation and mulch when work is interrupted for extended periods

Manage Runoff and Keep Velocities Low

- Protect disturbed area from off-site water
- Direct runoff into stabilized channels with stable outlets
- Break up long slopes with diversions

Capture Sediment Near the Source

- More practical to have several small well-maintained measures near the graded areas rather than a large basin capturing most of the runoff
- Need access to measures for maintenance and inspection

Maintenance and Inspection

- Lack of maintenance is the most common reason for failure
- Insist that the contractor inspects and repairs measures after each rainfall event

Preparation for Site Inspections

- ✓ Review plan and take with you to the site
- ✓ Review previous inspection reports
- ✓ Gather inspection tools
- ✓ If site is under NOV or enforcement, contact responsible party

Inspection Tools for Your Office

- ✓ Aerial photographs of your region of responsibility
- ✓ Topographic maps of your region of responsibility
- ✓ Engineering scales for appropriate scales of maps and photos
- ✓ Drafting tools to properly measure sites from plans, topographic maps, and aerial photos
- ✓ Soil survey or soils maps of your region of responsibility
- ✓ River basin maps
- ✓ HQW maps
- ✓ Inspection tracking mechanism (computer program, calendar, etc.)
- ✓ Calculator
- ✓ Video Camera

Inspection Tools for Your Vehicle

- ✓ Several copies of the Law and Rules
- ✓ Hand level
- ✓ Measuring wheel
- ✓ Measuring tape, 100 feet
- ✓ One-man surveyor’s rod and rod holders

- ✓ Surveying level or transit
- ✓ Surveying flags or stakes
- ✓ Hardhat and safety vest
- ✓ Camera
- ✓ Calculator
- ✓ Inspection reports
- ✓ Scratch pad

Inspector Tracking Mechanisms

- Allows inspector to organize and prioritize projects and to track deadlines
- Need to track:
  - Last inspection date
  - Last NOV date and deadline
  - Project info – location, financially responsible party, and size

Inspector's Duties

Reviewing Plan

- Check for:
  - Critical areas onsite – stream crossings, wetlands, steep cut and fill slopes, etc.
  - Access to maintain E&SC measures
  - Construction and installation schedule – E&SC measures to be installed first
  - Maintenance plans
  - Borrow and waste areas – adequate E&SC for these areas

Pre-construction Conference

- Establish lines of communication
- Clarify objectives of E&SC plan
- Establish procedures for changing the approved plan
- Discuss scheduling of clearing and grading and installation of E&SC
- Discuss maintenance of E&SC measures
- Inspect site with contractor and financially responsible party

Maintenance

- Single biggest cause of failure is lack of maintenance
- All devices and measures should be inspected after each storm event
- Access for maintenance

The Inspection Fundamental Questions

- Is the E&SC system installed as shown on the approved plan?
- Is erosion being controlled on the site?
- Is sediment being CONTAINED on the site?
- Are the 5 mandatory requirements of the SPCA being met?

All Answers YES = COMPLIANCE

- Site is incompliance with the SPCA
- Complete the inspection report

All Answers NOT YES = NONCOMPLIANCE

- If any one answer = NO, then site is in violation with the SPCA
- Complete the inspection report, noting specific violation and corrective actions
- Determine course of action:
  - Deadline for corrective actions to be finished
  - Notice of violation outlining deadline and corrective actions
  - Immediate enforcement

What to Do During an Inspection

- Carry set of approved plans
- Take detailed, orderly field notes
  - Notes should be prepared so others can understand
  - All documentation could potentially be used as evidence in court
- Check in with job superintendent, if available
- If off-site sedimentation is noted:
  - Go downstream to assess the damage

    - Estimate sediment loading by measuring sizes of erosion gullies onsite and sediment deposits off site
    - Take pictures or video and correlate them to a map
    - Document Date, Time, and Stream information
- Measure basin and other measurable sizes
- Walk the perimeter of the site
- Note need for maintenance
    - Basin clean out
    - Rock check dam repair
    - Silt fence replacement
    - More gravel for construction entrance
- ALWAYS complete the inspection report at the site!

Causes of Noncompliance

Little or No Effort to Comply

- Inform responsible party of SPCA and note action to be taken
- Causes:
    - Not submitting a plan
    - Starting work without an approved plan
    - Failing to follow the approved plan

Inadequate Design or Changes in Site Conditions

- Note in inspection report that a revised plan is needed with deadline
- Approved plan must be modified and approved if:
    - Measures aren't retaining sediment on-site
    - Modifications have been made in the field that aren't on approved plan but could affect E&SC
    - Slopes cannot be stabilized as set forth in approved plan
    - Contributing drainage areas have increased in size
    - The method of stabilization noted in the approved plan is adequate

Faulty Installation or Poor Maintenance

- NUMBER ONE CAUSE FOR NONCOMPLIANCE!

Vegetation, Mulches, Nets, and Mats

Inspecting Vegetation

- Proper selection of vegetation
  - Is the plant type:
    - Appropriate for the soil and the slope?
    - Properly chosen given the climate and orientation of the area?
    - Properly chosen for the activity of the area?
- Seedbed preparation and soil amendment
  - Check to determine:
    - That soils are not too compacted
    - Adequate lime and fertilizer are being applied
    - Correct seed is being applied
- Anchoring and Maintenance

Proper Mulching

- Rule of thumb: mulch should cover about 70-80% of surface
- Make sure mulch is well anchored

Organic Mulches

- Straw
  - 1-2 tons per acre
  - Wheat or oat straw
  - Dry, un-chopped, un-weathered; avoid weeds
  - Spread by hand or machine; must be tacked or anchored
- Wood fiber or Wood cellulose
  - ½ -1 ton per acre
  - Use with hydro-seeder; may be used to tack straw
  - Do not use in hot, dry weather

Nets and Mats

- Jute net
  - Follow manufacturer's recommendations for installation
  - By itself, provides little moisture conservation; woven of single jute yarn
  - Install over organic mulch as tack or anchor
  - Withstands higher velocities than just mulch

- Excelsior (wood fiber) mat
  - Follow manufacturer's recommendations for installation
  - Protective mulch mat
  - Can be installed without other mulch

- Chemical Mulches (Soil Binders)
  - Follow manufacturer's specifications
  - Best used as mulch anchor

Maintenance of Vegetation Cover

- Additional lime and fertilizer
- Over seeding
- Mowing for adequate access

Inspecting Erosion and Sediment Control Practices, Measures and Devices

Structural Ground Covers

- Hard-Surface (pavement, concrete and revetments)
  - Watch for accelerated erosion at the toe and top of hard-surfaced slopes
  - Must provide transition/dissipator where flow outlets onto natural ground

- Semi-Hard Surfaces (stone or gravel)
  - Make sure stone size is adequate to withstand velocity
  - Should blend with surrounding land surface by undercutting
  - Ensure that adequate flow area has been provided
  - Must have geotextile fabric or a stone or sand filter under riprap

Entrance and Exit Stabilization

- Use coarse gravel or stone at least 6" deep, 50' long, and 12' wide
- Unstable or wet soils may require a layer of geotextile fabric
- Make sure runoff is diverted from these areas
- Maintenance: more stone may be required

Diversions

- Dike and channel must be on proper grade to ensure that water flows in the desired direction. Watch for abrupt changes in grade or direction
- Dikes must be compacted and channels stabilized
- Channels must have a large enough flow area
- As a rule, diversions should generally parallel the site contours
- Maintenance: must remain cleaned out

Runoff Convergence

- Channels
  - Provide channel until vegetation is fully established: mulch or netting
  - For riprap lined channels:
    - Check for undercut channel to insure adequate flow area
    - Filter blanket or geotextile fabric
  - Check outlet for proper outlet protection
  - Protect from sedimentation, once stabilized
- Slope Drains
  - Slope drains frequently fail from piping around the inlet
  - Ensure that slope drains are well anchored
- Chutes
  - Chutes have steep slopes and high velocities. Check outlets to ensure adequate protection
  - Check inlets to ensure that water does not bypass the chute
  - Chutes may require sub-drains to prevent uplifts and piping
  - Avoid bends
- Problem Areas
  - Gullies in channel bottom usually means velocities are too high for stabilization method
  - Sloughing of channel sides indicates the following causes:
    - High water table
    - Side slopes too steep
    - Velocities are too high for stabilization method
    - Sediment at the outlet of a channel usually means a problem with the channel

Outlet Protection

- Outlet protection should reduce velocity to permissible velocity of channel
- Apron of the outlet structure must be level with natural ground to prevent undercutting
- Plunge pools – useful where dissipator lengths are excessive

Inlet Protection

- Excavated Drop-Inlet Protections
  - Drainage area = 1 acre or less
  - Excavated area must equal 1800 ft^3 per disturbed acre
  - Check for method of draining
  - Maintenance – clean sediment out

- Hardware Cloth and Gravel Inlet Protection
  - Steel T posts at least 5 ft long must be used, and must be driven at least 2 feet into the ground
  - Washed stone (NC DOT #5 or #57) must be placed around the wire, at a 2:1 slope and height of 16 inches
  - Recommend placing 2 ft flap of wire mesh hardware cloth under the gravel
  - Total height of measure should be at least 2 feet
  - Maintenance: inspect, repair and clean out sediment

- Block and Gravel Inlet Protection
  - Blocks must be set against the base of the inlet
  - Must have block turned to allow dewatering: covered with wire mesh and gravel
  - No higher than 2 feet
  - Dike on low side may be needed

- Rock Doughnut Inlet Protection
  - Should be at least 30 feet away from vehicular traffic
  - Doughnut should be constructed with Class B riprap for inner doughnut (at least 2 feet tall, with a 1.5 ft minimum crest and with slope of 2:1), covered by a 1-foot-thick layer of washed stone (NC DOT #5 or #57)
  - Dike may be needed on low side
  - Maintenance: clean out sediment pool when half full

- Rock Pipe Inlet Protection
  - Only used for pipes with a maximum diameter of 36 inches
  - Minimum height of 2 feet with 2:1 slope
  - Horseshoe should be constructed with Class B or Class I riprap (minimum crest 3 feet), covered by a 1-foot-thick layer of #5 or #57 washed stone
  - Sediment storage area upstream of pipe should be at least 1.5 feet below grade
  - Maintenance: inspect, repair and clean out sediment when sediment pool is half full

Sediment Fences, Traps and Basins

- Sediment Fences
  - Sediment fences do not filter sediment
  - Check that:
    - Slows water and allows sediment deposition
    - Fabric buried at least 12 inches and backfilled with compacted soil
    - Fencing adequately supported with steel posts

        - Fences are not placed in areas of concentrated flow (i.e. in the path of drain outlets)
        - Fences are maintained after every rainfall event, the accumulated sediment removed and fence checked for damage
        - Total drainage area restricted so that water depth is never greater than 1.5 feet

- Sediment Traps
    - Dike should be compacted and higher than the weir section
    - Maintenance: cleaned out when one-half full of sediment
    - Baffles (3) should be included in sediment pool

- Sediment Basins
    - Check that:
        - Total drainage should not be more than 100 acres
        - Sediment storage = 1800 ft^3 per disturbed acre of drainage area
        - Constructed according to the plans
        - The primary spillway conduit: watertight and has anti-seep collars to prevent piping along the conduit
        - Has stabilized outlet
        - Dewaters from surface (skimmer or flashboard riser)
        - Trash racks (guards) on riser
        - A minimum of 3 baffles must be included in sediment pool
        - Emergency spillway in natural ground with at least 1 foot of freeboard
        - Access for frequent maintenance

Stream Crossings

- Should be avoided if possible. Sediment can enter stream directly

Culverts

- Check for:
    - Adequate sizing
    - Compacted soil around culvert to prevent piping
    - In stream devices installed during construction
    - Stabilized inlet and outlet

Fords

- Check for:
    - Geotextile fabric covered with properly sized stone
    - Approaches with 5:1 slope of flatter
    - Stabilized approaches

Buffer Zones

- Check for:
  - Visible sediment only in first 25% of buffer closest to disturbance
  - Maintenance: fertilize, replant

Sedimentation and Erosion Control Inspection Report

Overview of the Inspection Report

- Legal documentation of onsite visits
- Clearly document onsite conditions that exist on the day of inspection
- Case #
  - Include on the report if enforcement action has been requested on a project
  - Located in the upper right hand corner of the report
- County, Project, River Basin
  - Record
    - County
    - Project Name
    - River basin in which project is located
  - Take the project name from the Financial Responsibility/Ownership Form (FRO)
- Financially Responsible Party/Address
  - The actual person, firm, company, etc. that is financially responsible for the project
  - Include their mailing address in case of violation, or stop work order enforcement
- Item 1: Project Location and Pictures
  - Project Location
    - Brief description of the project location to enable persons not familiar with the site to locate the project
    - Generally, you should start from a major highway, or road
  - Pictures
    - **"YES"**, note type of pictures (prints, slides, digital, video)
    - Include a site sketch showing location and direction of photographs
- Item 2: Weather and Soil Conditions
  - Note the weather conditions on the date of inspection and indicate if soil conditions are suitable for work to be in progress
- Item 3: Is Site Currently Under Notice of Violation?
  - **"YES"** if the site is currently under a Notice of Violation (NOV)

- If "YES" is marked, then violations must be marked in **Item 5**
- **"NO"** if a NOV will be issued as a result of the inspection, note such in the comments section

- Item 4: Is the Site in Compliance?
  - Note: A site cannot be marked in compliance until all violations have been corrected
  - If you check **"NO"**, you must note violations in **Item 5** and note corrective actions needed in **Item 8**; comments can be made under **Item 8**, as well
  - If you check **"YES"**, no violations can be marked in **Item 5** and no corrective items can be noted; notes can be made in comment section

- Item 5: Violations
  - Do not mark any violations if **Item 4** is marked **"YES"**
  - If **Item 4** is marked **"NO"**, note which violations occurred at the site

☞ **Overview of Violations in Item 5 of the Inspection Report**

a) No approved plan, **G.S. 113A-57(4)** and **15A N.C.A.C 4B .0107(c)**
   - When a land-disturbing activity greater than one acre is underway without an approved erosion and sedimentation control plan

b) Failure to follow approved plan, **G.S. 113A-57.5(5)**
   - An approved erosion and sedimentation control plan has not been followed
   - Not providing timely ground cover is also a violation of this statute

c) Failure to submit revised plan, **G.S. 113A-54.1(b)** and **15A N.C.A.C. 4B .0118(a)**
   - Marked only when the responsible party has been previously notified of the need to submit a revised plan and has failed to do so

d) Failure to provide adequate groundcover, **G.S. 113A-57(3)** and **15A N.C.A.C. 4B .0107(b)** or **15A N.C.A.C. 4B .0124(e)**
   - When the time limits provided in the statute and rules have expired
   - Time limit provided here is not the same as that for graded slopes

e.) Insufficient measures to retain sediment on site, **G.S. 113A-57(3)**

- Sediment damage must be observed beyond the project boundary or into a stream; and
- The land-disturbing activity must be greater than one acre

f) Failure to take all reasonable measures, **15A N.C.A.C. 4B .0105**
- When measures may not be sufficient to prevent sedimentation damage
- When other measures may be needed
- Can be cited for sites less than one acre

g) Inadequate buffer zone, **G.S. 113A-57(1)**
- Buffers can be natural or mechanical
- If the buffer fails to function
- When grading has taken place within the natural buffer and offsite sedimentation has occurred or can potentially occur

h) Graded slopes and fills too steep, **G.S. 113A-57(2)** or **15A N.C.A.C. 4B .0124(d)**
- Graded cut and fill slopes are too steep to be stabilized with a vegetative cover or other erosion control measure

i) Unprotected exposed slopes, **G.S. 113A-57(2)**
- When the graded slopes have remained bare longer than 21 calendar days after completion of any phase of grading
- Note under "Comments" the date of completion of any phase of grading for reference

j) Failure to maintain erosion control measures, **15A N.C.A.C. 4B .0113**
- When inspection finds measures in need of maintenance

k) Failure to self-inspect **G.S. 113A-54.1(e)** and **15A N.C.A.C. 4B.01031**
- When the self-inspection sheet is not filled out or kept on site and available to the inspector

l) Other
- Note any violation/s of the Act or rule that is not covered by violations listed on report

- Item 6: Is There Potential for an NPDES Permit Violation
  - If "YES", then describe possible areas
  - If "No", then leave description black
    Do not mark violations m – v if **Item 6** is marked **"YES"**
  - If **Item 6** is marked **"NO"**, note which violations occurred at the site

- Item 7: Has Sedimentation Damage Occurred Since Last Inspection

- To check **"YES"**, document visible signs of sedimentation damage
  - Sediment deposits should be measured (depth, width, length)
  - For enforcement cases, take pictures and reference a location map or sketch
- To check **"NO"**, no new visible signs of sedimentation deposits
- Check off appropriate violations in **Item 5** and note corrective actions needed in **Item 9**

- Item 8: Contact Made with Persons
  - Include the name of any person(s) you had contact with and indicate their title or position
  - Note if the inspection report was given (in person) or sent to the financially responsible party

Record the date the report was given/sent

- Item 9: Corrective Actions Needed
  - Note corrective actions needed to bring the site into compliance
  - Relate corrective actions to violations noted in **Item 5**
  - Avoid designing measures
  - *If no violations are on the site, no comments in this section*

- Item 10: Comments
  - Use for general comments about the project or for additional space for previous sections
  - Helpful hints:
    - Note here when a phase of grading has been completed
    - Note when a site has been seeded and mulched
    - Note any activity onsite

- Report by, Others Present
  - Indicate the name of the person inspecting and filling out the report
  - Note others in attendance at the inspection and have them sign the inspection report

- Date of Inspection, Time Arriving On Site, Time Leaving Site
  - Note the date of the inspection
  - Note the time you arrived on the site and the time you departed
  - Used for verification purposes
  - CC: Give names of other being sent the report
  - Send copies of reports on enforcement cases to _____

- Additional Sheets
  - Use when the 1-page report does not have room for all the info
  - Reference the inspection report
  - Note the site name and county, as a minimum

Human Relations

Step 1	Maintain a friendly and professional manner
Step 2	Acknowledge that a difficult situation exists
Step 3	Calm the individual by questioning and verifying
Step 4	Involve the person in solving the problem
Step 5	Handle the problem

Being the Bearer of Bad News

Step 1	Present the situation
Step 2	Allow the person time to adjust
Step 3	Accept the person's reaction
Step 4	Demonstrate acceptance of the person's reaction
Step 5	Restate positive points
Step 6	Offer assistance
Step 7	Clearly express that violations must be corrected
Step 8	Allow for future contact and follow-up

Summary

- It takes time to learn how to inspect a construction site properly
- You must be familiar with:
  - The law
  - The rules
  - The erosion and sedimentation control practices
- Proper inspection requires planning and a systematic approach

Where to Go for HELP?

- Land Quality Section Website https://deq.nc.gov/about/divisions/energy-mineral-land-resources/erosion-sediment-control/forms
- Or Contact Your:
  - Local Program,
  - Land Quality Section Regional Office or,
  - Land Quality Section Headquarters.

✶ Check Local Ordinance Listing, and Regional Office Map for contacts and phone numbers

Revised 10/5/2018

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

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 moun-tain 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

The North Carolina Sedimentation erosion control program

Soil Erosion Facts

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

What can raise the cost of you water or electric bill? What can perma-nently 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 – sedimen-tation 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 govern-ment 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
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Mooresville Regional Office
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Raleigh Regional Office
3800 Barrett Drive
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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
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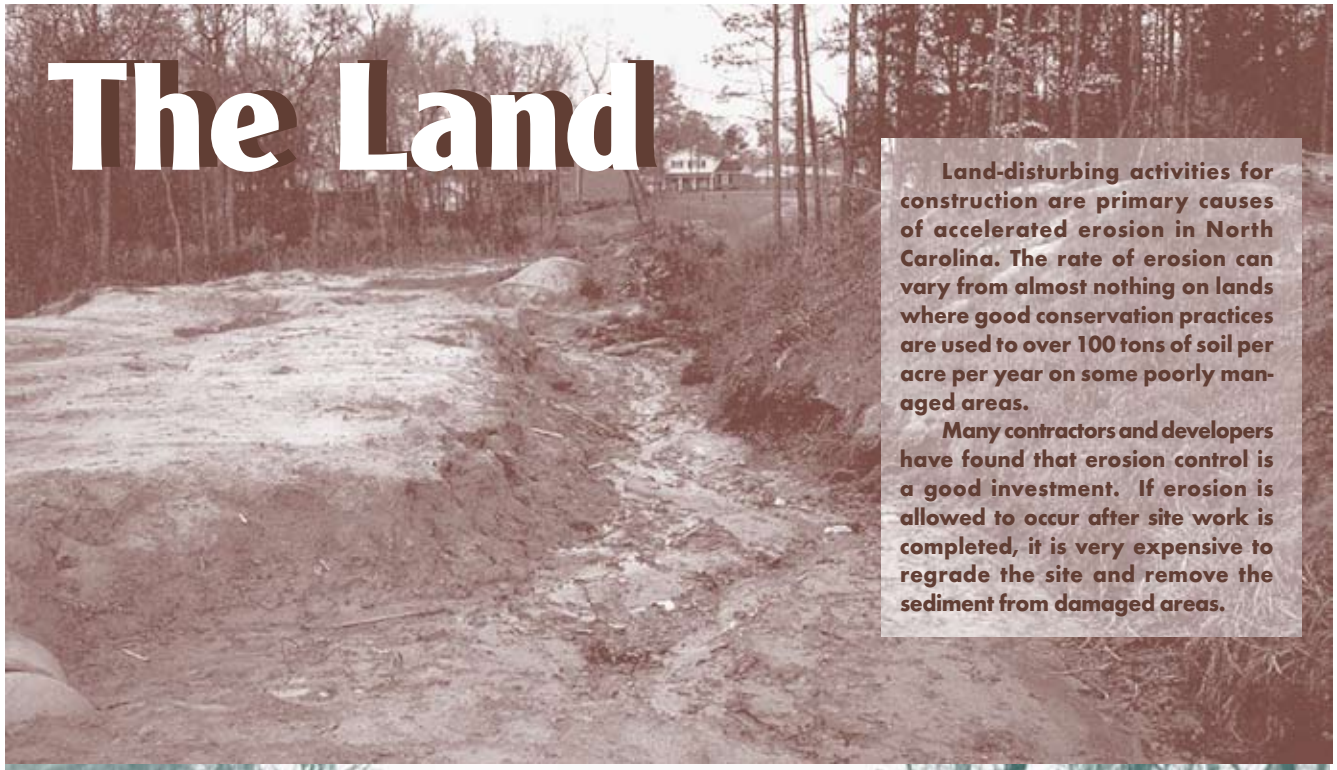
(919) 707-9220

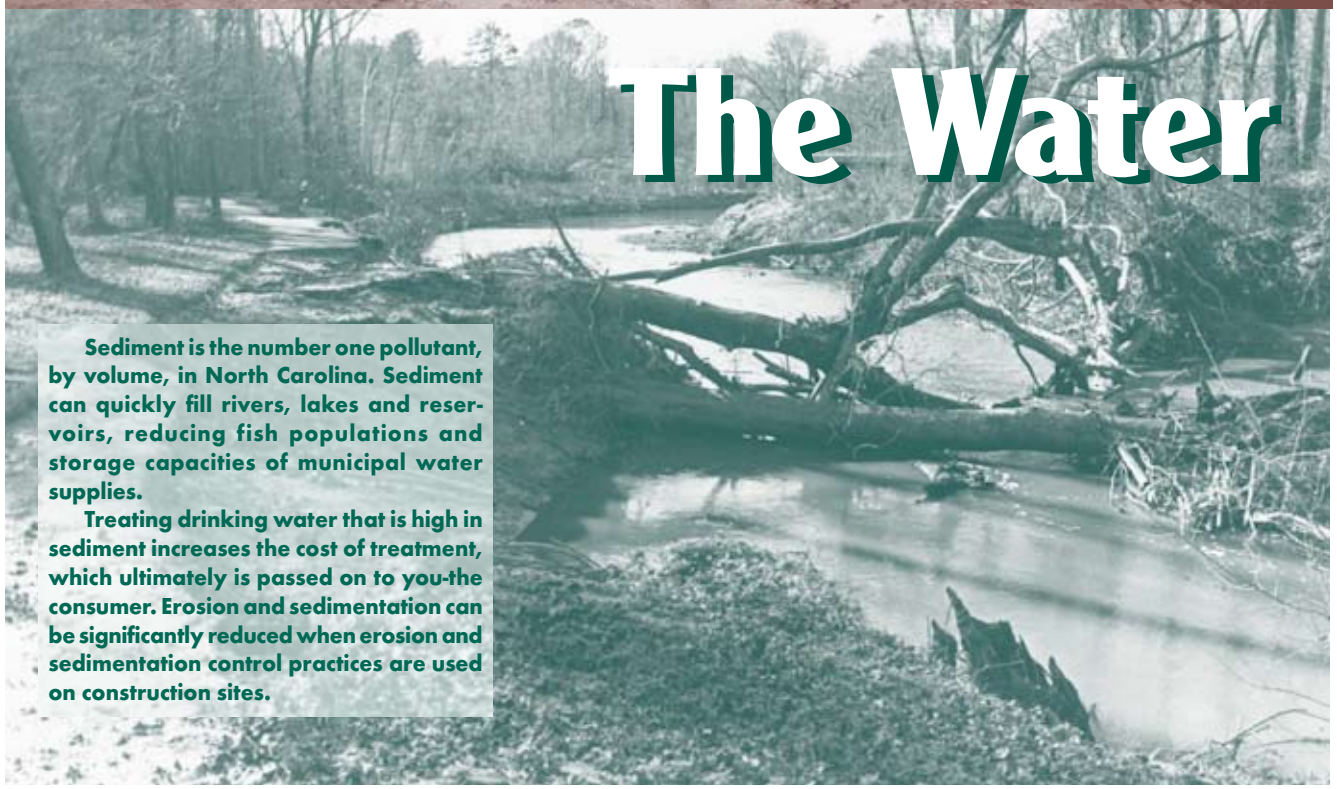
Revised 7/18



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.

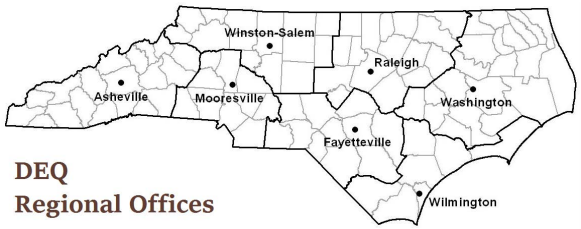
The law includes five mandatory standards:

- 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.



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

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

Mooresville:
610 East Center Ave.
Suite 301
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Winston-Salem:
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(910) 796-7215

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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:

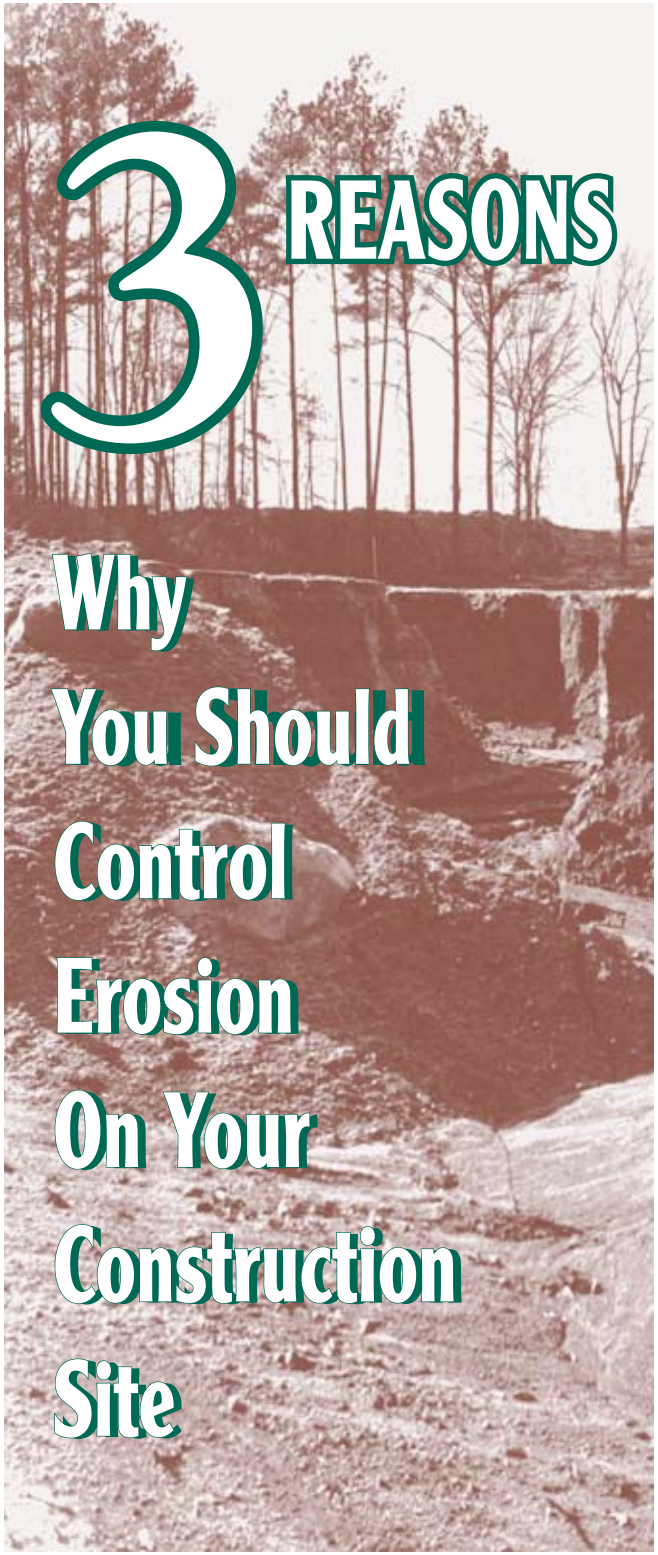
The *Erosion Patrol* 3rd Grade Curriculum Supplement

Teacher and Student Packets

Erosion and Sedimentation Control Workshops

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

The North Carolina Sedimentation erosion control program



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?

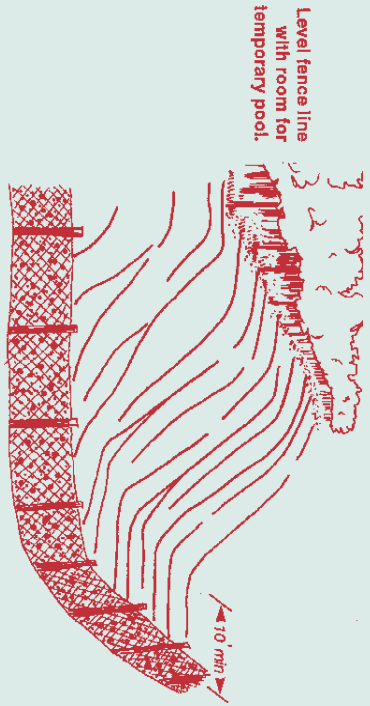
Here are some simple devices that can be used during construction to reduce erosion and minimize sedimentation.

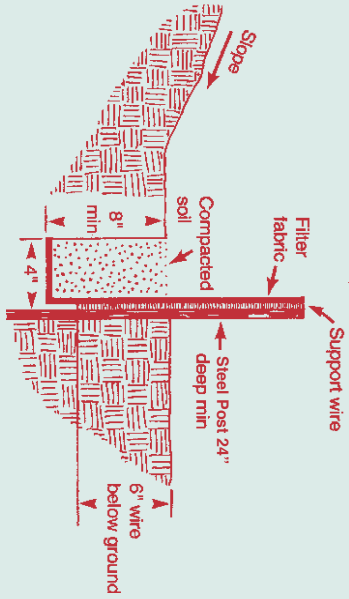
- Temporary and permanent vegetation
- Sediment fence on property border
- Stone construction entrance
- Grass-covered drainage ditches

NORTH CAROLINA
Department of Environmental Quality

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

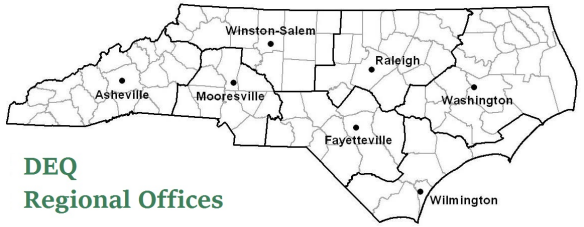
The gravel entrance/exit provides a stable entrance condition from the construction site and keeps sediment off public roads.

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.



DEQ Regional Offices

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2090 US Highway 70
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Raleigh Central:
512 North Salisbury Street
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(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)

The North Carolina Sedimentation erosion control program

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

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Grandfather Village
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Revised: 10/29/2018

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.

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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.

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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.