

# Sediment Control Rules Adoption

Update and Actions  
Required

## TIMELINE OF ACTIONS FOR RULES COMPLETION

- 1) Sediment Control Commission (SCC) adopted rules.  
November 4, 2019
- 2) Rules provided to Rules Review Commission (RRC) staff.  
November 14, 2019
- 3) RRC staff provided comments to DEMLR on “Technical Changes” needed. January 3, 2020
- 4) DEMLR staff agreed to most technical recommendations.
- 5) RRC approved rules (w/two objections). March 19, 2020
- 6) *SCC responds to objections.* May 12, 2020
- 7) *RRC acts on SCC response.* May 21, 2020

# RRC OBJECTED TO TWO EXISTING RULES

## 1.) 15A NCAC 04C .0103 WHO MAY ASSESS

- **Existing rule:** “The director may assess civil penalties . . .”
- **RRC staff comment:** “rule simply repeats statute, staff believes is unnecessary”

# RRC OBJECTED TO TWO EXISTING RULES

## 2.) 15A NCAC 04C .0106 CRITERIA *(for penalty assessments)*

- **Existing rule:** “In determining the amount of the civil penalty assessment, the director shall consider the following criteria:”
- **RRC staff comment:** Assessment criteria are provided in the statutes. There is a “Lack of statutory authority” to include (the existing) criteria that are not specified in the statutes.

# *Action to Address RRC Concerns*

Counsel to the Commission  
and DEMLR staff support  
repeal of both rules.

# Options for SCC

- 1) Respond to RRC objections by repealing rules 15A NCAC 04C .0103 and 04C .0106.
- 2) Respond to the RRC that the Sediment Commission disagrees with the objections.
- 3) Revise the rule wording to address RRC objections.

## POSSIBLE MOTION

In response to the Rule Review Commission objections, it is proposed that rules 15A NCAC 04C .0103 and 15A NCAC 04C .0106 be repealed.