

TITLE 15A – DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

Notice is hereby given in accordance with G.S. 150B-21.2 that the Sedimentation Control Commission intends to adopt the rules cited as 15A NCAC 04B .0132.

Link to agency website pursuant to G.S. 150B.19.1(c): <http://portal.ncdenr.org/web/lr/erosion>

Proposed Effective Date: *January 1, 2012*

Public Hearing:

Date: *October 11, 2011*

Time: *10:00 a.m.*

Location: *Ground Floor Hearing Room, Archdale Building, 512 North Salisbury Street, Raleigh, NC*

Reason for Proposed Action: *Session Law 2009-486 established temporary standards for the design of erosion and sedimentation control measures, and time limits for the provision of ground cover in the watershed of Falls Lake. The session law further directed the Sedimentation Control Commission to adopt permanent rules concerning these design standards and time limits for ground cover by December 31, 2011. In adopting the permanent rules, the Commission is directed to consider the standards in the session law. The proposed rule adopts the design standards from the session law for the design storm, sediment basin efficiency, the slope of channels and time limits for ground cover. There is no change in economic impact from the session law. The rule establishes permanent standards for erosion and sedimentation control in the Falls Lake watershed identical to the existing standards in Session Law 2009-486.*

Procedure by which a person can object to the agency on a proposed rule: *A person may file a written, signed objection to the proposed rule by mail, delivery service, hand delivery, facsimile transmission, or an electronic scan of an original via electronic mail. Objections must be received by 5:00 pm on November 15, 2011. Objections should be addressed to T. Gray Hauser, Jr., PE, DENR, Division of Land Resources, 1612 Mail Service Center, Raleigh, NC 27699-1612, fax (919)733-2876, email gray.hauser@ncdenr.gov.*

Comments may be submitted to: *T. Gray Hauser, Jr., PE, DENR, Division of Land Resources, 1612 Mail Service Center, Raleigh, NC 27699-1612, fax (919)733-2876, email gray.hauser@ncdenr.gov*

Comment period ends: *November 15, 2011*

Procedure for Subjecting a Proposed Rule to Legislative Review: *If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission after the adoption of the Rule. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.*

Fiscal impact (check all that apply).

- State funds affected**
- Environmental permitting of DOT affected**
- Analysis submitted to Board of Transportation**
- Local funds affected**
- Date submitted to OSBM:**
- Substantial economic impact (\geq \$500,000)**
- Approved by OSBM**
- Approval by OSBM not required**

CHAPTER 04 - SEDIMENTATION CONTROL

SUBCHAPTER 04B - EROSION AND SEDIMENT CONTROL

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 or any generally recognized organization or association.
- (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 or any generally recognized organization or association.
- (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 acceptable ditch liners. In any event, 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.

Authority S.L. 2009-486.