



**North Carolina Department of Transportation
Division of Highways and
Rail Division
Erosion and Sedimentation Control Program
January 2010**

The purpose of this document is to outline the Erosion and Sedimentation Control Program agreement between the North Carolina Department of Transportation Division of Highways and the North Carolina Department of Transportation Rail Division.

This agreement will identify the procedures that will be followed and the authorities that the Department of Transportation Division of Highways shall have on North Carolina Department of Transportation Rail Division projects located on NCDOT owned rail corridors, properties, and facilities. This agreement is not applicable on privately owned rail corridors in the zone of federal preeminence described in 15A NCAC 04B.0128.

GENERAL:

1. NCDOT Division of Highways reserves the right to terminate this agreement at any time if the Rail Division fails to fully comply with the terms of the following listed items. At such time, the Division of Highways will not recognize the Rail Division as part of NCDOT Division of Highways delegated authority, and the Rail Division will be required to coordinate with NCDENR as an individual agency for compliance with the Sedimentation and Pollution Control Act. NCDOT Division of Highways will notify DENR Land Quality Section 30 days prior to termination of the agreement.
2. NCDOT Rail Division has the right to terminate this agreement at any time. NCDOT Rail Division will notify DENR Land Quality Section 30 days prior to termination of the agreement.
3. NCDOT Division of Highways shall be in agreement with the project scope for erosion and sedimentation control procedures for each applicable Rail Division project. NCDOT Division of Highways shall have the authority to identify special needs for a project and the Rail Division shall agree to address those needs to the satisfaction of the Division of Highways which could include the purchasing of additional right of way or easement, or modification of plans to include Special Design Features, Standards, Special Provisions, etc.
4. NCDOT Rail Division shall provide Division of Highways with Rail Division Submittal Guidelines that will indicate all personnel responsible for erosion and sedimentation control for applicable Rail Division projects. The Submittal Guidelines will indicate who will be responsible for submitting erosion and sedimentation control plans to Division of Highways or if Rail Division requests Division of Highways to prepare the erosion and sedimentation control plan, who will be responsible for coordinating meetings between Rail Division and Division of Highways for erosion and sedimentation reviews and design issues. The Submittal Guidelines will also indicate who will be notified if an Immediate Corrective Action (ICA) notice or Permit Consultation Needed (PCN) notice is issued and who will be responsible for insuring that corrective actions are completed within the time limits specified on the ICA or PCN notice.

5. NCDOT Rail Division will be responsible for obtaining all 401, 404, and CAMA permits and environmental documentation and submitting those documents as part of the erosion and sedimentation control plan.
6. Temporary access and haul roads, other than public roads, constructed or used in connection with the project shall be considered a part of the project and addressed in the Erosion and Sedimentation Control Plans and Project Special Provisions. Borrow, waste, or staging areas that are part of the project shall comply with Division of Highway's Reclamation Plan Procedures for contract projects unless borrow or waste activity is regulated under the *Mining Act of 1971*, or is a landfill regulated by the Division of Solid Waste Management (NCDENR). NCDOT Rail Division shall submit the permit number for waste/borrow covered by the Mining Act or regulated by Division of Solid Waste Management (DENR) to the Roadside Environmental Unit.

DESIGN:

1. NCDOT Rail Division will have a pre-design meeting with NCDOT Division of Highways and any design-build teams for applicable projects, prior to designing the erosion and sedimentation control plan.
2. Upon approval of Erosion and Sedimentation Control Plans by NCDOT Division of Highways, the approved Erosion and Sedimentation Control Plans shall be distributed to all NCDOT Division of Highways and Rail Division personnel listed in the Rail Division Submittal Guidelines before any land disturbing activities can commence. No land disturbing activities shall occur in any location that does not have an approved erosion and sedimentation control plan.
3. NCDOT Division of Highways reserves the right to conduct on site plan reviews for compliance and will redesign for unique situations that may develop during the construction of the project. If the project is modified or a phase of grading is problematic from an erosion and sedimentation control issue or compliance with the NCDOT Division of Highways delegated authority, then a redesign will be required and submitted for the NCDOT Division of Highways approval. Work on the affected portion of the project will cease until the erosion and sedimentation control plan has been redesigned and approved by NCDOT Division of Highways and implemented by Rail Division.
4. NCDOT Rail Division engineers or its agents who design and develop erosion and sedimentation control plans for Rail Division projects shall conform to NCDOT's Erosion and Sedimentation Control/Stormwater Certification requirements for Level IIIA plan designers and/or Level IIIB for reclamation plan designers.

CONSTRUCTION:

1. NCDOT Division of Highways shall have complete authority to review the project at any time for erosion and sedimentation control compliance, which includes the project, waste and borrow pits, haul roads, staging areas as well as all documents and plans. Documented inspection records that NCDOT completes for the project will be distributed according to the NCDOT Rail Division submittal guidelines detailing the condition of the project and corrective actions, if any, that need to be accomplished. Rail Division or it's contractor is responsible for performing all corrective actions identified in the report and shall correct the deficiencies within the set time directed on the erosion and

sedimentation control report. Failure to correct these items will result in the issuance of an Immediate Corrective Action notice.

2. NCDOT Rail Division will adhere to NCDOT Division of Highways Erosion and Sedimentation Control Policy and Procedures, as well as project specific documents associated with erosion and sedimentation control.
3. In the event NCDOT Division of Highways observes that there is a violation to the Sedimentation Pollution Control Act of 1973, or any subsequent rules, Division of Highways shall immediately notify the Rail Division of the deficiency. An Immediate Corrective Action (ICA) notice will be issued for the project which will cease all construction activities on the project until corrective actions identified in the ICA notice have been completed to the satisfaction of NCDOT Division of Highways. Division of Highways and Rail Division will jointly determine what construction activities may continue separate and apart from the ICA abatement depending on the severity of the ICA notice.
4. In the event Division of Highways observes that there may be a violation to a permit condition during construction, Division of Highways will issue a Permit Consultation Needed (PCN) notice to notify the Rail Division of the situation. Rail Division will be responsible for investigating and coordinating a corrective action plan with the regulatory agency and Division of Highways. Division of Highways reserves the right and will be provided the opportunity to review, comment, and agree to corrective action plans to achieve timely compliance. Rail Division shall provide documentation to Division of Highways that the permit violation has been resolved to the satisfaction of the regulatory agency(s).
5. Whenever the Division of Highways determines that significant erosion and sedimentation continues, despite the implementation of the approved erosion and sedimentation control plan, Rail Division will be required to and shall take additional protective action and amend the erosion and sedimentation control plan.
6. Rail Division, along with its employees, agents, and contractors will conform to NCDOT's Division of Highways Erosion and Sedimentation Control/Stormwater Certification Program for Level I Inspectors and Installers and Level II Site Management.
7. NCDOT will be responsible for all fines, penalties, and damages associated with Erosion and Sedimentation Control violations for applicable Rail Division projects and the cost associated with correcting those violations.

AGREED TO BY THE
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
RAIL DIVISION


Patrick B. Simmons, Director

1.26.10

Date

AGREED TO BY THE
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION
DIVISION OF HIGHWAYS


Jon Nance, PE, Chief Engineer - Operations

1/27/10

Date