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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Repealed Eff.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Repealed Eff.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Repealed Eff.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

(a) All uncovered areas which:

- (1) existed on the effective date of these Rules;
- (2) resulted from land disturbing activity;
- (3) exceed one acre;
- (4) are experiencing continued accelerated erosion; and
- (5) are causing off-site damage from sedimentation,

shall be provided with ground cover or other protective measures, structures, or devices sufficient to restrain accelerated erosion and control off-site sedimentation.

(b) The commission or local government shall serve a notice to comply with the provisions of G.S. 113A-50 et. seq. or any ordinance, rule or order adopted or issued pursuant to G.S. 113A-50 et. seq. by the Commission or by a local government upon the landowner or other person in possession or control of the land by any means authorized under G.S. 1A-1, Rule 4. The notice shall state the measures needed and the time allowed for compliance. The commission or local government issuing the notice shall consider the economic feasibility, technological expertise and quantity of work required, and shall establish reasonable time limits for compliance.

(c) State agency erosion and sedimentation control programs submitted to the commission for delegation of authority to administer such programs shall contain provisions for the treatment of existing exposed areas. Such provisions shall consider the economic feasibility, existing technology, and quantity of work required.

(d) This Rule shall not require ground cover on cleared land forming the future basin of a planned reservoir.

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.

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 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. 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.

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

- (a) The Commission recognizes that under the Federal Railroad Safety Act of 1970 (FRSA), 45 U.S.C. 421 et seq., as interpreted by federal administrative rules and court decisions, existing railroad roadbeds comprise a zone of federal preeminence within which federal law takes precedence over the Act [the SPCA].
- (b) While the specific definition of this zone of federal preeminence is a question of federal law and regulation, in general the zone of federal preeminence extends outward from the center of the railroad roadbed to and including drainage ditches and spoil banks on either side of the roadbed.
- (c) In the event of a derailment, washout, or other emergency condition which requires immediate action to protect public safety, the zone of federal preeminence temporarily expands, for the duration of the emergency condition, to encompass areas adjacent to the roadbed within which emergency repairs are undertaken pursuant to the FRSA and Federal Railroad Administration rules.
- (d) The Act and rules do not apply to activities conducted within the zone of federal preeminence. The Act and rules apply to all other activities conducted by railroad companies. Railroad companies shall take all reasonable measures that are consistent with the requirements of federal law to control sedimentation originating in the zone of federal preeminence.
- (e) A railroad company's failure to comply with a requirement of the Act or rules in order to avoid creating a safety hazard or to avoid noncompliance with a federal safety requirement is not a knowing or willful violation of the Act or rules.
- (f) The Commission will provide advice and technical assistance to railroad companies in the development and implementation of voluntary best management practices to reduce environmental impacts that may otherwise result from activities conducted within the zone of federal preeminence.

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.

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.