

SECTION .1000 - STORMWATER MANAGEMENT

15A NCAC 02H .1001 POST-CONSTRUCTION STORMWATER MANAGEMENT: PURPOSE AND SCOPE

The purpose of this Section is to protect surface waters and aquatic resources from the adverse impacts of stormwater runoff from development activities.

- (1) **APPLICABILITY.** This Section shall apply to development projects and major modifications of development projects for residential, commercial, industrial, or institutional use that are subject to one or more of the post-construction stormwater management programs listed in Item (2) of this Rule. This Section shall not apply to:
 - (a) land management activities associated with agriculture or silviculture;
 - (b) activities of the North Carolina Department of Transportation (NCDOT) that are regulated in accordance with the provisions of NPDES Permit Number NCS000250;
 - (c) linear transportation projects undertaken by an entity other than the NCDOT when:
 - (i) the project is constructed to NCDOT standards and is in accordance with the NCDOT Stormwater Best Management Practices Toolbox (Version 2, April 2014 Edition) which is herein incorporated by reference, including any subsequent amendments and editions, and may be accessed at no cost at https://connect.ncdot.gov/resources/hydro/HSPDocuments/2014_BMP_Toolbox.pdf;
 - (ii) upon completion, the project will be conveyed either to the NCDOT or another public entity and will be regulated in accordance with that entity's NPDES MS4 stormwater permit; and
 - (iii) the project is not part of a common plan of development;
 - (d) development activities that have already received a State Stormwater Permit or Certification where no modification or a minor modification is requested. These activities shall follow their existing permit conditions.
 - (e) airport facilities that are deemed permitted in accordance with G.S. 143-214.7(c4); and
 - (f) "redevelopment" as the term is defined in G.S. 143-214.7(a1).
- (2) **STORMWATER PROGRAMS.** The post-construction stormwater management programs consist of the following:
 - (a) Coastal Counties – 15A NCAC 02H .1019;
 - (b) Non-Coastal County High Quality Waters and Outstanding Resource Waters – 15A NCAC 02H .1021;
 - (c) NPDES MS4 Stormwater – 15A NCAC 02H .0126; 15A NCAC 02H .0150, .0151; 15A NCAC 02H .0153; 15A NCAC 02H .1017;
 - (d) Urbanizing Areas – 15A NCAC 02H .1016; and
 - (e) Universal Stormwater Management Program - 15A NCAC 02H .1020.
- (3) **PERMIT REQUIRED.** A permit shall be required for development activities that are subject to any of the post-construction stormwater management programs listed in Item (2) of this Rule. The permit shall be issued by the implementing authority in accordance with this Section. If a project is subject to more than one post-construction stormwater management program, the requirements of both programs shall apply unless otherwise required or allowed by the applicable rule of this Section.
- (4) **DISPUTES REGARDING WATER QUALITY CLASSIFICATION.** For stormwater programs that apply based on water quality classification, any disputes regarding water quality classification shall be determined by the N.C. Division of Water Resources pursuant to 15A NCAC 02B .0101 and in accordance with G.S. 143-214.1.
- (5) **PRIOR AUTHORIZATIONS.** A development project shall not be required to comply with this Section or shall be allowed to follow an earlier version of the rules of this Section available for no cost on the Division's website at <http://deq.nc.gov/about/divisions/energy-mineral-land-resources/energy-mineral-land-permits/stormwater-program> if it is conducted pursuant to one of the following authorizations, provided that the authorization was obtained prior to the effective date of the applicable rule of this Section, and the authorization is valid, unexpired, unrevoked, and not otherwise terminated:
 - (a) a building permit pursuant to G.S. 153A-357 or G.S. 160A-417;

- (b) a "site specific development plan" as defined by G.S. 153A-344.1(b)(5) and G.S. 160A-385.1(b)(5);
 - (c) a "phased development plan" as defined by G.S. 153A-344.1(b)(3) or G.S. 160A-385.1 that shows:
 - (i) for the initial or first phase of development, the type and intensity of uses for a specific parcel or parcels, including the boundaries of the project and a subdivision plan that has been approved pursuant to G.S. 153A-330 through G.S. 153A-335 or G.S. 160A-371 through G.S. 160A-376; and
 - (ii) for any subsequent phase of development, sufficient detail that demonstrates to the permitting authority that implementation of the requirements of this Section to that phase of development would require a material change in that phase of development as contemplated in the phased development plan. Sufficient detail may include documentation of financial expenditures and contractual obligations, a copy of an approved site-specific development plan, and a narrative of how the new rules will require a material change to the subsequent phase or phases of development; or
 - (d) a vested right to the development pursuant to common law.
- (6) ANTI-DEGRADATION POLICY. Development projects that are subject to this Section shall comply with the Antidegradation Policy set forth in 15A NCAC 02B .0201.

History Note: Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a)(1); S.L. 2014-1; Eff. January 1, 1988;
Amended Eff. September 1, 1995;
Readopted Eff. January 1, 2017.