

15A NCAC 02H .1030 STORMWATER REQUIREMENTS: OIL AND GAS EXPLORATION AND PRODUCTION

(a) Regulated Development Activity. Persons engaged in oil and gas exploration, development, and production activities shall manage stormwater runoff in accordance with the provisions of this Rule.

- (1) These persons shall submit a permit application to the Division of Energy, Mineral, and Land Resources (Division) in accordance with the requirements of this Section.
- (2) These persons shall obtain a permit from the Division prior to any on-site activities other than land surveying, and surface soil testing of hydraulic conductivity and engineering properties.
- (3) This Rule authorizes the Division to issue a stormwater-only permit. Any other discharge to surface waters is prohibited unless permitted in accordance with G.S. 143-215.1.
- (4) The Division may issue stormwater permits as discrete, stand-alone stormwater permits or may incorporate stormwater permit conditions into an environmental protection permit encompassing multiple regulatory programs.

(b) Permit Application Requirements.

- (1) Notwithstanding the qualifying provisions of Rule .1003(b)(1), (2), and (3) of this Section, a complete permit application and a permit are required for oil and gas exploration, development, and production activity, regardless of whether the activity also requires a CAMA major development permit or an Erosion and Sedimentation Control Plan. A permit application and permit are also required regardless of whether the development is located in the 20 coastal counties, drains to Outstanding Resource Waters (ORW), or drains to High Quality Waters (HQP).
- (2) The Division shall treat each stormwater permit application for oil and gas exploration, development, and production activities as a High Density Project application as provided for in Rule .1003(d)(2) of this Section, and shall only grant permit coverage if the application itself and the proposed development meet the requirements of this Rule.
- (3) The Director may solicit and receive comments from other regulatory agencies and the public when necessary to obtain additional information needed to complete the review of either the stormwater permit application or the stormwater conditions in an application for an environmental protection permit encompassing multiple regulatory programs. If comments are solicited, notice will be posted on the Division's website with 30 days provided for public comment to be submitted to the Director. The permit application will be included in the notice published on the Division's website.
- (4) The permit application for oil and gas exploration, development, and production activities shall be submitted to the Division at the Raleigh Central Office located at 512 North Salisbury Street, Raleigh, North Carolina 27604.
- (5) The stormwater permit application shall comply with the requirements in Rule .1003(g) of this Section. In addition, the application shall include the following information:
 - (A) all North Carolina classifications and supplemental classifications (if any) assigned to the receiving water;
 - (B) the location of all stormwater discharge points, both by latitude and longitude coordinates and by graphic representation;
 - (C) the graphic representation of the location and delineation of wetlands and regulated buffers on the site, adjacent to the site, or between the site and the receiving water;
 - (D) a statement that there are no threatened or endangered species identified for the receiving water or for downstream receiving waters. If threatened or endangered species are present the application shall identify the threatened and endangered species and their reported locations in the receiving water and downstream receiving waters. The application shall propose specific measures for the protection of any threatened or endangered species present in the receiving water. The Division shall evaluate the proposed measures and may require additional or different measures in the final form of the stormwater management permit;
 - (E) a design narrative that explains the assumptions and calculations for the engineering design of the stormwater control systems proposed and that identifies how the design complies with each specific requirement of this Section; and
 - (F) a graphic representation of the final site grade and site conditions that will be implemented in support of a future request to rescind the stormwater permit, or

comprehensive environmental permit, based on the final close out and the end of the permit holder's commercial interest in the site.

- (6) As a part of the permit application, the applicant shall submit a Stormwater Management Plan that identifies the physical and procedural stormwater management measures proposed to minimize the discharge of pollutants through stormwater. The Stormwater Management Plan shall address all phases of site activity and operation. The Stormwater Management Plan shall include:
- (A) a description of site activities with the potential to affect the pollutant content of stormwater runoff;
 - (B) a description of the permittee's stormwater management strategy to control and minimize stormwater exposure of significant materials;
 - (C) a description of the permittee's spill prevention and response procedures;
 - (D) a description of the permittee's preparations in anticipation of, and in response to, rainfall events in excess of the design basis of the physical stormwater control and treatment measures employed;
 - (E) a description of good housekeeping measures and supporting facility inspections including a schedule of inspections and maintenance on any structural control measures;
 - (F) a description of the permittee's training of site personnel in stormwater pollution prevention; and
 - (G) the identification of the specific person or position responsible for the overall coordination, development, implementation, and revision of the Stormwater Management Plan.

(c) Stormwater Management Requirements.

- (1) During initial site clearing, grading, excavation, and construction of earthen surface features, including temporary erosion and sedimentation control measures and permanent stormwater control measures, the permittee shall manage (control, operate, maintain, store, handle, clean up, and dispose of) site conditions, materials, activities, and stormwater as follows:
 - (A) Equipment, petroleum products, equipment wash waters, and associated spent fluids shall be managed to prevent the potential or actual pollution of surface waters by direct discharge or via stormwater runoff.
 - (B) Herbicides, pesticides, fertilizers, and similar materials shall be managed to prevent introduction into stormwater runoff.
 - (C) Building material waste, land clearing and demolition debris, litter, and sanitary wastes shall be managed to prevent introduction into stormwater runoff. Dedicated management areas shall be established for these materials a minimum of 50 feet away from surface waters and discrete stormwater conveyances.
 - (D) Topsoil and excavated material stockpiles shall be located a minimum of 50 feet away from surface waters and stormwater conveyances and shall be managed to prevent runoff transport of the stockpiled materials to surface waters.
 - (E) Excess concrete, concrete wash water, and cement slurries shall be managed to prevent the potential or actual pollution of surface waters by direct discharge or via stormwater runoff.
- (2) During initial site clearing, grading, excavation, and construction of earthen surface features, including temporary erosion and sedimentation control measures and permanent stormwater control measures, the permittee shall manage site conditions, materials, activities, and stormwater as follows:
 - (A) All perimeter dikes, perimeter swales, perimeter ditches, perimeter slopes, all slopes steeper than 3:1, and all slopes longer than 50 feet shall be provided with temporary or permanent ground cover stabilization within 7 calendar days from the last land disturbing activity.
 - (B) All other disturbed areas shall be provided temporary or permanent ground cover stabilization within 14 calendar days from the last land disturbing activity.
 - (C) Time extensions may be requested in writing by the permittee. These requests may be granted by the Division based on weather or site-specific conditions.
 - (D) Treatment measure requirements:
 - (i) All sediment basins and traps with a contributing drainage area of one acre or greater shall utilize outlet structures that withdraw water from the surface.

- (ii) Stormwater treated with polymers, flocculants, or other treatment chemicals shall be routed through sediment traps, filters, or other settling devices to ensure removal prior to discharge to surface waters. Only chemicals that have been approved by the Division may be used. The approved chemicals list is available on the Division's website at <http://portal.ncdenr.org/web/lr/construction-stormwater>.
- (3) For this Rule, 'spudding' the well means starting the oil or gas well drilling process by removing rock, dirt, and other sedimentary material with the drill bit. After initial site clearing, grading, excavation, and construction of earthen surface features, including temporary erosion and sedimentation control measures and permanent stormwater control measures, and at least 72 hours prior to spudding an oil or gas well, the permittee shall deliver to the Division written certification by the individual designing the stormwater control system in accordance with Rule .1008(j) of this Section. Regardless of whether a certificate of occupancy is provided or required by other authority, the permittee shall not proceed with spudding the well until the Division accepts the designer's written certification. Within 72 hours of receiving the designer's certificate the Division shall inspect the permitted stormwater control system. Subsequent to the inspection, the Division may withhold acceptance of the designer's certification upon concluding that the stormwater control system has not been installed in accordance with the stormwater permit and the approved stormwater permit application documents. If the Division fails to inspect the stormwater control system within 72 hours of receiving the designer's certification, the certification shall be deemed accepted by the Division and the permittee may proceed with spudding the well.
- (4) After completion of the surface site preparation activity, and beginning with the surface activity in direct support of well drilling, the permittee shall manage site conditions, materials, activities, and stormwater as follows:
 - (A) Stormwater control measures shall control and treat the runoff from the rainfall event with a 24-hour precipitation total greater than or equal to 90 percent of all 24-hour rainfall event totals on an annual basis.
 - (B) Stormwater control measures shall discharge at a rate less than or equal to the peak pre-development discharge rate for the 1-year, 24-hour storm.
 - (C) Stormwater control measures shall be designed in accordance with the provisions of Rule .1008 of this Section.
 - (D) In addition to the measures identified in Rule .1008(a) of this Section, other measures shall be approved where individually, or in combination, the measures achieve 85% average annual removal of Total Suspended Solids, and upon the Division's review and conclusion of appropriate design and suitability for the anticipated site conditions.
 - (E) All stormwater control measures shall be equipped with underflow baffles or other effective means to prevent the discharge of hydrocarbons and floating pollutants.
 - (F) The requirements identified in Subparagraphs (1) and (2) of this Paragraph for initial site construction shall also apply to all subsequent phases of site operation.
- (5) The Division shall establish record-keeping, self-inspection, and self-reporting permit requirements to insure effective site management attention, response actions, and control of the potential for polluted stormwater.
- (6) Stormwater management requirements provided in this Paragraph pertain to the well pad area, all adjacent developed areas, and access and haul roads in proximity to the well pad or directly associated with the operation of the permitted site.
- (d) Coordination with other water quality regulations.
 - (1) For oil and gas exploration, development, and production activities, compliance with this Rule satisfies the requirements of Rule .1006 of this Section. However, pursuant to Rule .1006 of this Section, the Division may require more stringent measures for development activities draining to HQW waters.
 - (2) For oil and gas exploration, development, and production activities, compliance with this Rule satisfies the Freshwater ORW requirements of Rule .1007 of this Section. However, pursuant to Rule .1007 of this Section, the Division may require more stringent measures for development activities draining to ORW waters.
 - (3) This Rule is not intended to modify, repeal, or supersede any other rule, regulation, or other provision of law. The requirements of this Rule are in addition to the requirements of any other

rule, regulation, or other provision of law. Where any requirement of this Rule imposes restrictions different from those imposed by any other rule, regulation, or other provision of law, whichever requirement is more restrictive or imposes higher protective standards for human or environmental health, safety, and welfare shall control. This includes Sections 15A NCAC 02B .0100, 15A NCAC 02B .0200, and 15A NCAC 02B .0300, whether administered by the State or by a local unit of government.

History Note: Authority G.S. 113-391(a3)(1); 143-214.1; 143-214.7; 143-215.1; 143-215.3(a); S.L. 2014-4 s. 2.(e);
Eff. March 17, 2015.