

15A NCAC 02H .1040 PERMIT ADMINISTRATION

This Rule applies to the permitting processes set forth in Rules .1041 through .1045 of this Section.

- (1) **SIGNATURES ON PERMIT APPLICATION FORMS.** Application forms shall have an original signature by one of the following entities unless the application is accompanied by a letter of authorization signed by the appropriate authority as designated in Sub-Items (a) through (d) of this Item authorizing the signature of another entity:
 - (a) in the case of a corporation, by a principal executive officer of the level of vice-president or his authorized representative. In the case of a limited liability corporation (LLC), by a manager or company official as those terms are defined in G.S. 57D "North Carolina Limited Liability Company Act;"
 - (b) in the case of a partnership, by a general partner or a managing partner. In the case of a limited partnership, by a general partner;
 - (c) in the case of a proprietorship, by the proprietor(s); or
 - (d) in the case of a municipal, state, or other public entity, by either a principal executive officer, ranking official, or other duly authorized employee.
- (2) **PERMIT PROCESSING TIMES.** The Division shall process permit applications and additional or amended information pursuant to G.S. 143-215.1.
- (3) **DELEGATION.** For permits issued by the Division, the Director shall be authorized to delegate to Division staff any of the functions contained in these Rules, except the following:
 - (a) denying a permit application;
 - (b) revoking a permit if such revocation is not requested by the permittee;
 - (c) modifying a permit not requested by the permittee; and
 - (d) calling for a public notice or meeting.
- (4) **PERMIT ISSUANCE.** The following shall apply to stormwater management permits issued by the Division:
 - (a) stormwater management permits issued for low density projects shall not require permit renewal;
 - (b) stormwater management permits issued for projects that require the construction of engineered stormwater control measures shall be issued for a period not to exceed 8 years; and
 - (c) stormwater management permits shall be issued to the property owner or to a lessee, purchaser, or developer with the written permission of the property owner, and shall cover the entire project.
- (5) **PERMIT DENIAL.** If the Director denies a permit, the letter of denial shall state the reason(s) for denial and the Director's estimate of the changes in the applicant's proposed activities or plans that would be required in order that the applicant may obtain a permit. Permit applications may be denied where the proposed project results in noncompliance with:
 - (a) the purposes of G.S. 143, Article 21;
 - (b) the purposes of G.S. 143-215.67(a);
 - (c) rules governing coastal waste treatment or disposal, found in Section .0400 of this Subchapter;
 - (d) rules governing "subsurface disposal systems," found in 15A NCAC 18A .1900. Copies of these Rules are available from the North Carolina Division of Public Health, 1632 Mail Service Center, Raleigh, North Carolina 27699-1632; or
 - (e) rules governing groundwater quality standards found in Subchapter 2L of this Chapter.
- (6) **PERMIT REVOCATION OR MODIFICATION.** Permits issued pursuant to these Rules are subject to revocation, or modification by the Director upon 60 days' written notice by the Director in whole or in part for good cause including the following:
 - (a) violation of any terms or conditions of the permit;
 - (b) obtaining a permit by misrepresentation or failure to disclose all relevant facts; or
 - (c) refusal of the permittee to allow authorized employees of the Department of Environmental Quality, upon presentation of credentials:
 - (i) to enter upon permittee's premises in which any records are required to be kept under terms and conditions of the permit;
 - (ii) to have access to any and all records required to be kept under terms and conditions of the permit;

- (iii) to inspect any monitoring equipment or method required in the permit; or
 - (iv) to sample any discharge of pollutants.
- (7) **DIRECTOR'S CERTIFICATION.** With the exception of the fast track permitting as set forth in Rules .1043 and .1044 of this Section, projects that do not comply with the requirements of this Section may be approved on a case-by-case basis if the project is certified by the Director that water quality standards and best usages will not be threatened. Approval of alternative designs for SCMs that do not meet all the MDC shall be in accordance with Rule .1003(6) of this Section. Approval of new stormwater technologies shall be in accordance with Rule .1050(15) of this Section. The applicant shall provide information that demonstrates to the Director that:
 - (a) there are practical difficulties or hardships due to the physical nature of the project such as its size, shape, or topography that prevent strict compliance with this Section; and
 - (b) water quality standards and best usages will be protected, including development plans and specifications for SCMs that will be installed in lieu of the requirements of this Section or information that demonstrates that the project is located such that impacts to surface waters from pollutants present in stormwater from the site will be mitigated.
- (8) **PUBLIC NOTICE.** The Director is authorized to call for a public notice or hearing to solicit and receive comments from other regulatory agencies and the public to obtain additional information needed to complete the review of either the stormwater permit application or the stormwater conditions. If comments are solicited, notice shall be posted on the Division's website and shall provide the public at least 30 days after publication to submit comments to the Director. The permit application shall be included in the notice published on the Division's website.
- (9) **CONTESTED CASE HEARING.** An applicant whose application is denied or who is issued a permit subject to conditions that are not acceptable to the applicant may seek a contested case hearing pursuant to G.S. 150B-23.
- (10) **COMPLIANCE.** Any individual or entity found to be in noncompliance with the provisions of a stormwater management permit or the requirements of this Section shall be subject to enforcement procedures as set forth in G.S. 143, Article 21.

History Note: Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a); 143-215.3D; 143-215.6A; 143-215.6B; 143-215.6C;
 Eff. January 1, 2017 (portions of this rule previously codified in 15A NCAC 02H .1003, .1010, .1011, and .1012).