

1 15A NCAC 02H .1030 is proposed for adoption as follows:
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3 **15A NCAC 02H .1030 STORMWATER REQUIREMENTS: OIL AND GAS EXPLORATION AND**
4 **PRODUCTION**

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

7 (1) Such persons shall submit a permit application to the Division of Energy, Mineral, and Land
8 Resources (Division) in accordance with the requirements of this Section.

9 (2) Such persons shall obtain a permit from the Division prior to any on-site activities other than land
10 surveying, and surface soil testing of hydraulic conductivity and engineering properties.

11 (3) This Rule authorizes the Division to issue a stormwater-only permit. The Division shall not
12 authorize by permit the discharge to surface waters of stormwater commingled with any other
13 fluid.

14 (4) The Division may issue stormwater permits as discrete, stand-alone stormwater permits or may
15 incorporate stormwater permit conditions into an environmental protection permit encompassing
16 multiple regulatory programs.

17 (b) Permit Application Requirements.

18 (1) Notwithstanding the qualifying provisions of Rule .1003(b)(1), (2), and (3) of this Section, a
19 complete permit application and a permit are required for oil and gas exploration, development,
20 and production activity regardless of whether the activity also requires a CAMA major
21 development permit or an Erosion and Sedimentation Control Plan; and regardless of whether the
22 development is located in the 20 coastal counties, or drains to Outstanding Resource Waters
23 (ORW), or drains to High Quality Waters (HQW).

24 (2) The Division shall treat each stormwater permit application for oil and gas exploration,
25 development, and production activities as a High Density Project application as provided for in
26 Rule .1003(d)(2), and shall only grant permit coverage if the application itself and the proposed
27 development meet the requirements of this Rule.

28 (3) The permit application for oil and gas exploration, development, and production activities shall be
29 submitted to the Division at the Raleigh Central Office.

30 (4) The stormwater permit application shall comply with the requirements in Rule .1003(g) of this
31 Section. In addition, the application shall include the following information:

32 (A) all North Carolina classifications and supplemental classifications (if any) assigned to the
33 receiving water;

34 (B) the location of all stormwater discharge points, both by latitude and longitude coordinates
35 and by graphic representation at a scale sufficient for the Division's review;

1 (C) the graphic representation of the location and delineation of wetlands and regulated
2 buffers on the site, adjacent to the site, or between the site and the receiving water at a
3 scale sufficient for the Division's review;

4 (D) a statement that there are no threatened or endangered species identified for the receiving
5 water or for downstream receiving waters. Alternatively, the application shall identify
6 the threatened and endangered species and their reported locations in the receiving water
7 and downstream receiving waters;

8 (E) a design narrative that explains the assumptions and calculations for the engineering
9 design of the stormwater control systems proposed and that individually identifies how
10 the design complies with each specific requirement of this Section;

11 (F) Final Site Close Out Plan: the graphic representation, at a scale sufficient for the
12 Division's review, of the final site grade and site conditions that will be implemented in
13 support of a future request to rescind the stormwater permit or comprehensive
14 environmental permit based on the final close out and the end of the permit holder's
15 commercial interest in the site.

16 (c) Stormwater Management Requirements.

17 (1) During initial site clearing, grading, excavation, and construction of earthen surface features,
18 including temporary erosion and sedimentation control measures and permanent stormwater
19 control measures, the permittee shall manage site conditions, materials, activities, and stormwater
20 as follows.

21 (A) Equipment, petroleum products, equipment wash waters, and associated spent fluids shall
22 be managed (operated, maintained, stored, handled, cleaned up, and disposed of) to
23 prevent the potential or actual pollution of surface waters by direct discharge or via
24 stormwater runoff.

25 (B) Herbicides, pesticides, fertilizers, and similar materials shall be managed to prevent
26 introduction into stormwater runoff, and in accordance with label restrictions and the
27 Federal Insecticide, Fungicide, and Rodenticide Act.

28 (C) Building material waste, land clearing and demolition debris, litter, and sanitary wastes
29 shall be managed to prevent introduction into stormwater runoff. Dedicated management
30 areas shall be established for these materials a minimum of 50 feet away from surface
31 waters and discrete stormwater conveyances.

32 (D) Topsoil and excavated material stockpiles shall be located a minimum of 50 feet away
33 from surface waters and stormwater conveyances and shall be managed to prevent runoff
34 transport of the stockpiled materials to the surface waters of North Carolina.

35 (E) Excess concrete, concrete wash water, and cement slurries shall be managed to prevent
36 the potential or actual pollution of surface waters by direct discharge or via stormwater
37 runoff.

1 (2) During initial site clearing, grading, excavation, and construction of earthen surface features,
2 including temporary erosion and sedimentation control measures and permanent stormwater
3 control measures, the permittee shall manage site conditions, materials, activities, and stormwater
4 as follows.

5 (A) All perimeter dikes, perimeter swales, perimeter ditches, perimeter slopes, all slopes
6 steeper than 3:1, and all slopes longer than 50 feet shall be provided with temporary or
7 permanent ground cover stabilization as soon as practical, but in every case within 7
8 calendar days from the last land disturbing activity.

9 (B) All other disturbed areas shall be provided temporary or permanent ground cover
10 stabilization as soon as practical, but in every case within 14 calendar days from the last
11 land disturbing activity.

12 (C) Time extensions may be granted by the Division based on weather or site-specific
13 conditions. The Division may also deny requests for such extensions.

14 (D) Treatment measure requirements.

15 (i) All sediment basins and traps with a contributing drainage area of 1 acre or
16 greater must utilize outlet structures that withdraw water from the surface.

17 (ii) Stormwater treated with polymers, flocculants, or other treatment chemicals
18 must be routed through sediment traps, filters, and/or other settling devices to
19 ensure removal prior to discharge to surface waters. Only chemicals that have
20 been approved by the Division may be used.

21 (3) During initial site clearing, grading, excavation, and construction of earthen surface features,
22 including temporary erosion and sedimentation control measures and permanent stormwater
23 control measures, and prior to the full demobilization of the site preparation equipment and forces,
24 and prior to any mobilization to the site of any equipment or material intended to support
25 subsurface activities, the individual designing the stormwater control system identified in Rule
26 .1008(j) of this Section must certify in writing to the Division in accordance with Rule .1008(j) of
27 this Section. Regardless of whether a certificate of occupancy is provided or required by other
28 authority, no additional mobilization to the site shall take place until the Division accepts the
29 designer's certification in writing. The Division may withhold acceptance of the designer's
30 certification pending a favorable site inspection by the Regional Office.

31 (4) After completion of the surface site preparation activity, and beginning with the surface activity in
32 direct support of well drilling and continuing thereafter, the permittee shall manage site
33 conditions, materials, activities, and stormwater as follows.

34 (A) Stormwater control measures shall control and treat the runoff from the 1" rainfall; or,
35 stormwater control measures shall control and treat the difference in runoff for pre-
36 development and post-development conditions for the 90th percentile rainfall event.

1 (B) Stormwater control measures shall discharge at a rate less than or equal to the peak pre-
2 development discharge rate for the 1-year, 24-hour storm.

3 (C) Stormwater control measures shall be designed in accordance with the provisions of Rule
4 .1008 of this Section, with options and guidance provided by the version of the Division's
5 Stormwater Best Management Practices Manual current at the time of permit application
6 or permit revision request.

7 (D) In addition to the measures identified in Rule .1008(a) of this Section, measures
8 appearing in the Division's Stormwater Best Management Practices Manual shall be
9 approved where individually, or in combination, the measures achieve 85% average
10 annual removal of Total Suspended Solids, and upon the Division's review and
11 conclusion of appropriate design and suitability for the anticipated site conditions.

12 (E) All stormwater control measures shall be equipped with underflow baffles or other
13 effective means to prevent the discharge of hydrocarbons and floating pollutants.

14 (5) The Division shall establish record-keeping, self-inspection, and self-reporting permit
15 requirements to insure effective site management attention, response actions, and control of the
16 potential for polluted stormwater.

17 (d) Coordination with other water quality regulations.

18 (1) For oil and gas exploration, development, and production activities, compliance with this Rule
19 satisfies the requirements of Rule .1006 of this Section. However, the Division may require more
20 stringent measures for development activities draining to HQW waters as provided in Rule .1006
21 of this Section.

22 (2) For oil and gas exploration, development, and production activities, compliance with this Rule
23 satisfies the Freshwater ORW requirements of Rule .1007 of this Section. However, the Division
24 may require more stringent measures for development activities draining to ORW waters as
25 provided in Rule .1007 of this Section.

26 (3) This Rule is not intended to modify, repeal, or supersede any other rule, regulation, or other
27 provision of law. The requirements of this Rule are in addition to the requirements of any other
28 rule, regulation, or other provision of law. Where any requirement of this Rule imposes
29 restrictions different from those imposed by any other rule, regulation, or other provision of law,
30 whichever requirement is more restrictive or imposes higher protective standards for human or
31 environmental health, safety, and welfare shall control. This includes, but is not limited to,
32 Sections 15A NCAC 02B .0100, 15A NCAC 02B .0200, and 15A NCAC 02B .0300 whether
33 administered by the State or by a local unit of government.

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35 History Note: Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a); 113-391(a3)(1)

36 Eff. [date]