

SUBCHAPTER 01C - CONFORMITY WITH NORTH CAROLINA ENVIRONMENTAL POLICY ACT

SECTION .0100 – GENERAL PROVISIONS

15A NCAC 01C .0101 STATEMENT OF PURPOSE, POLICY, AND SCOPE

- (a) The purpose of the rules in this Subchapter is to establish procedures within the Department of Environmental Quality (DEQ) related to the North Carolina Environmental Policy Act (NCEPA).
- (b) Environmental documents shall be available to public officials and citizens before decisions are made and before actions are taken. The information shall be reliable and sufficient to allow selection among alternatives.
- (c) The Secretary is the "responsible state official" for DEQ. The Secretary may delegate responsibility for the implementation of the NCEPA to staff.
- (d) The provisions of the rules in this Subchapter, the Department of Administration's rules (01 NCAC 25), and the NCEPA shall be read together as a whole in order to comply with the spirit and letter of the law.
- (e) These Rules establish minimum criteria to determine when preparation of an environmental document is not required when DEQ is the state project agency.

*History Note: Authority G.S. 113A-2; 113A-6; 113A-9; 143B-10;
Eff. August 1, 1989;
Transferred from T15.01D .0201 Eff. November 1, 1989;
Amended Eff. April 1, 2003; August 1, 1996; March 1, 1990;
Readopted Eff. June 1, 2022.*

15A NCAC 01C .0102 AGENCY COMPLIANCE

*History Note: Authority G.S. 113A-2; 113A-5; 113A-6; 113A-10; 143B-10;
Eff. August 1, 1989;
Transferred from T15.01D .0202 Eff. November 1, 1989;
Amended Eff. March 1, 1990;
Repealed Eff. April 1, 2003.*

15A NCAC 01C .0103 DEFINITIONS

The definition of any word or phrase used in rules of this Subchapter is the same as given in G.S. 113A-9. The following words and phrases have the following meaning.

- (1) "Channel Disturbance" means activities that permanently remove or degrade the natural functions of the stream such as culverting, relocation, channelization, or streambank stabilization methods including gabions, rip rap, or similar hard structures.
- (2) "Cumulative Impacts" means environmental impacts resulting from incremental effects of an activity when added to other past, present, and reasonably foreseeable future activities regardless of what entities undertake such other actions. Cumulative impacts are the reasonably foreseeable impacts from individually minor but collectively significant activities.
- (3) "Direct Impacts" mean environmental impacts which are caused by an activity and occurring at the same time and place.
- (4) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that the waste or any constituent part of the waste may enter the environment or be emitted into the air or discharged into any waters, including groundwaters, or beneath or on the surface of the land.
- (5) "Ecosystem" means all the interrelated organisms and their environment within a defined area.
- (6) "Forestry Management Plan" means a document that guides the practical and sustainable application of biological, physical, quantitative, managerial, economic, social, and policy principles to the regeneration, management, utilization, and conservation of forests to meet specified goals, and objectives while maintaining the productivity of the forest. Forest management includes management for aesthetics, fish, recreation, urban values, water, wilderness, wildlife, wood products and other forest resource values.
- (7) "Hazardous Waste" means a waste, or combination of wastes, in any state or form including gas, liquid, or solid, that because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause or contribute to an increase in mortality or an increase in irreversible or

- incapacitating reversible illness, or pose a present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.
- (8) "High Quality Waters (HQW)" has the same meaning as in 15A NCAC 02B .0224.
 - (9) "Inlet" means a waterway between islands connecting a lagoon, estuary, sound, or similar water body with the ocean.
 - (10) "Instream Flow" means the amount of water needed in a stream to adequately provide for downstream uses occurring within the stream channel, including some or all of the following: aquatic habitat, recreation, wetlands maintenance, navigation, hydropower, riparian vegetation, and water quality.
 - (11) "Land-Disturbing Activity" has the same meaning as in G.S. 113A-52.
 - (12) "Lead Division" means the division within DEQ that has been appointed by the Secretary, pursuant to 15A NCAC 01C .0105, to have primary responsibility for preparation of an environmental document when DEQ is the state project agency.
 - (13) "Perennial Stream" means a channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.
 - (14) "Prime agricultural and forest land" means lands that possess the best combination of physical and chemical characteristics for producing food, feed, fiber (including forest products), forage, oilseed, and other agricultural products (including livestock), without intolerable soil erosion. This does not apply to lands that are already in or committed to development projects such as water impoundment, transportation, and urban development.
 - (15) "Reclaimed Water" has the same meaning as in 15A NCAC 02U .0103.
 - (16) "Resource" means any natural product or value, not necessarily economic, but including trees, minerals, wildlife, clean air and water, fisheries, ecosystems, landscapes, and open space.
 - (17) "River Basin" means the watershed of a major river system.
 - (18) "Secondary Impacts" mean indirect impacts caused by and resulting from a specific activity that occur later in time or further removed in distance than direct impacts, but are reasonably foreseeable. Indirect impacts may include growth inducing effects and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air, water, and other natural systems, including ecosystems.
 - (19) "Secretary" means the Secretary of DEQ.
 - (20) "State Project Agency" means the state department or council of state agency that has been designated pursuant to 01 NCAC 25 .0210(a) for ensuring compliance with NCEPA.
 - (21) "Stream Enhancement" means the process of implementing stream rehabilitation practices in order to improve water quality or ecological function. These practices are typically conducted on the stream bank or in the flood prone area. Enhancement activities may also include the placement of in-stream habitat structures.
 - (22) "Stream Restoration" means the process of converting an unstable, altered, or degraded stream corridor, including adjacent riparian zone and flood prone areas to its natural or referenced, stable conditions considering recent and future watershed conditions. This process also includes restoring the geomorphic dimension, pattern, and profile as well as biological and chemical integrity, including transport of water and sediment produced by the stream's watershed in order to achieve dynamic equilibrium.
 - (23) "Total Design Withdrawal" means the pumping rate at which water can be removed from the contributing stream. It is the sum of any pre-existing withdrawal capacity plus any withdrawal increase.
 - (24) "Wetlands" has the same meaning as in 15A NCAC 02B .0202.

History Note: Authority G.S. 113A-2; 113A-6; 113A-9; 143B-10;
Eff. April 1, 2003;
Readopted Eff. June 1, 2022.

15A NCAC 01C .0104 AGENCY COMPLIANCE

- (a) DEQ shall interpret the provisions of the NCEPA as a supplement to its existing authority and as a mandate to view its policies and programs in the light of the NCEPA's comprehensive environmental objectives.
- (b) As part of making a decision on a project for which an environmental document has been prepared, DEQ shall review the document and incorporate it as part of continuing deliberations. The resulting decision shall be made after weighing all of the impacts and mitigation measures presented in the environmental document, which shall become part of the decision-making record.

History Note: Authority G.S. 113A-2; 113A-5; 113A-6; 113A-10; 143B-10;
Eff. April 1, 2003;
Readopted Eff. June 1, 2022.

15A NCAC 01C .0105 LEAD AND COOPERATING DIVISIONS RESPONSIBILITY

Where DEQ is the state project agency and more than one of its divisions must issue a permit or other authorization for the project requiring review under NCEPA, the Secretary shall appoint a lead division to be responsible for preparation of the environmental document. The lead and cooperating divisions' responsibilities shall be established by the Secretary.

History Note: Authority G.S. 113A-2; 113A-4; 113A-6; 113A-7; 143B-10;
Eff. April 1, 2003;
Readopted Eff. June 1, 2022.

15A NCAC 01C .0106 SCOPING AND HEARINGS

When DEQ is the state project agency, DEQ shall utilize scoping and hearing processes to the extent appropriate to the complexity, potential for environmental effects, and level of expressed interest associated with the proposed action. Scoping and hearing processes are public processes designed to determine the types of environmental issues to be addressed in environmental documents. They are open processes intended to obtain the view of other agencies and the public in order for state agencies to make informed decisions.

History Note: Authority G.S. 113A-2; 113A-4; 113A-6; 143B-10;
Eff. April 1, 2003;
Readopted Eff. June 1, 2022.

15A NCAC 01C .0107 LIMITATION ON ACTIONS DURING NCEPA PROCESS

- (a) If an environmental document is required under NCEPA, DEQ shall not undertake an action until the environmental document for that action is final.
- (b) If DEQ is considering a proposed action for which an environmental document is to be or is being prepared under NCEPA, DEQ shall promptly notify the applicant that DEQ cannot take final action until the environmental document is completed and available for use as a decision-making tool. The notification shall be consistent with the statutory and regulatory requirements of DEQ and may be in the form of a notification that the application is incomplete.
- (c) When a program within DEQ decides that a proposed action, for which other DEQ actions are pending or have been taken, requires environmental documentation, then that program shall promptly notify all the other relevant DEQ programs of the decision.
- (d) When statutory and regulatory requirements prevent DEQ from suspending action, DEQ shall deny any action for which it determines an environmental document is required under NCEPA but not yet available as a decision-making tool.

History Note: Authority G.S. 113A-2; 113A-4; 113A-6; 113A-7; 143B-10;
Eff. April 1, 2003;
Readopted Eff. June 1, 2022.

15A NCAC 01C .0108 EMERGENCIES

- (a) If there is an immediate threat to public health, safety, and welfare, DEQ may take otherwise lawful actions with potential environmental effects without preparing an environmental document. In those emergency circumstances, DEQ shall limit actions to those necessary to control and mitigate for the immediate threat to the public health, safety, and welfare.

(b) DEQ may prepare and maintain environmental documents for repetitive emergency programs affecting the public to review the scope of involved activities, identify specific effects to be expected, and identify mitigation measures that can be employed.

History Note: Authority G.S. 113A-4; 113A-6; 113A-7; 143B-10;
Eff. April 1, 2003;
Readopted Eff. June 1, 2022.

15A NCAC 01C .0109 PREPARATION OF ENVIRONMENTAL DOCUMENTS

(a) When DEQ is the state project agency, DEQ may request information from an applicant to prepare an environmental document. DEQ shall independently evaluate the information provided and shall be responsible for its accuracy.

(b) When DEQ is the state project agency, an environmental document may be prepared by a consultant, including the applicant for the action's consultant. If DEQ allows an applicant for the action to prepare an environmental document, DEQ shall furnish guidance and participate in the preparation, and take responsibility for its scope, objectivity, content, and accuracy.

(c) The Environmental Assessment Guidance Document available through the State Clearinghouse provides guidance in preparing environmental documents.

(d) When DEQ is the state project agency, the content and finalization of an environmental document shall comply with NCEPA, DEQ's rules, and the Department of Administration's rules (01 NCAC 25).

History Note: Authority G.S. 113A-4; 113A-5; 113A-6; 113A-9; 143B-10;
Eff. April 1, 2003;
Readopted Eff. June 1, 2022.

SECTION .0200 - INTEGRATION WITH AGENCY ACTIVITY

15A NCAC 01C .0201 EARLY APPLICATION OF THE NCEPA

15A NCAC 01C .0202 WHEN TO PREPARE ENVIRONMENTAL DOCUMENTS

15A NCAC 01C .0203 LEAD AND COOPERATING AGENCY RESPONSIBILITY

15A NCAC 01C .0204 SCOPING AND HEARINGS

History Note: Authority G.S. 113A-2; 113A-4; 113A-6; 113A-7; 113A-8; 113A-9; 143B-10;
Eff. August 1, 1989;
Transferred from T15.01D .0301; .0302; .0303; .0304 Eff. November 1, 1989;
Amended Eff. March 1, 1990;
Repealed Eff. April 1, 2003.

15A NCAC 01C .0205 IMPLEMENTATION

History Note: Authority G.S. 113A-2; 113A-4; 113A-5; 113A-6; 143B-10;
Eff. April 1, 2003;
Repealed Eff. June 1, 2022.

15A NCAC 01C .0206 WHEN TO PREPARE ENVIRONMENTAL DOCUMENTS

(a) When an environmental document is required under NCEPA and DEQ is the state project agency, DEQ shall prepare an environmental document unless the action falls below the minimum criteria set forth in Section .0400 of this Subchapter. As described in 15A NCAC 01C .0306, the Secretary may require preparation of an environmental document that would otherwise not be required through application of DEQ's minimum criteria.

(b) An environmental assessment is not necessary if DEQ has decided to prepare an environmental impact statement.

(c) DEQ shall ensure that the activity that is the subject of the environmental document is properly defined. Closely connected activities should be reviewed together. Closely connected activities include:

- (1) activities that automatically trigger other activities that may require environmental impact statements;

- (2) activities that cannot or will not proceed unless other activities occur either previously or simultaneously; and
- (3) activities that are interdependent parts of a larger plan of development and depend on the larger plan of development for justification.

History Note: Authority G.S. 113A-2; 113A-4; 113A-6; 143B-10;
Eff. April 1, 2003;
Readopted Eff. June 1, 2022.

15A NCAC 01C .0207 INCORPORATION BY REFERENCE

- (a) DEQ shall incorporate material into environmental documents by reference to cut down on bulk without impeding DEQ and public reviews of the action. The incorporated material shall be cited in the document and its contents briefly described.
- (b) Incorporated-by-reference material shall be made available by the applicant for inspection by reviewers and potentially interested persons within the time allowed for comment.

History Note: Authority G.S. 113A-4; 113A-6; 113A-10; 143B-10;
Eff. April 1, 2003;
Readopted Eff. June 1, 2022.

15A NCAC 01C .0208 INCOMPLETE OR UNAVAILABLE INFORMATION

- (a) Where DEQ is evaluating effects upon the environment in an environmental document and there are gaps in relevant information or scientific uncertainty, DEQ shall make clear that such information is lacking or that uncertainty exists.
- (b) In considering whether unavailable information should be sought and included in the environmental document, DEQ shall consider whether the information can be obtained, how long it would take to obtain that information, and the significance of the information to understanding the effects of the proposed action or alternative. If, after considering those factors, DEQ proceeds with preparation of the environmental document without the information, DEQ shall include within the environmental document:
 - (1) a statement that such information is incomplete or unavailable;
 - (2) a statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment;
 - (3) a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment; and
 - (4) DEQ's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community.
- (c) For the purposes of this Section, "reasonably foreseeable" includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.

History Note: Authority G.S. 113A-4; 113A-6; 143B-10;
Eff. April 1, 2003;
Readopted Eff. June 1, 2022.

SECTION .0300 – SPECIAL CIRCUMSTANCES

15A NCAC 01C .0301 IMPLEMENTATION

15A NCAC 01C .0302 INCORPORATION BY REFERENCE

15A NCAC 01C .0303 INCOMPLETE OR UNAVAILABLE INFORMATION

History Note: Authority G.S. 113A-2; 113A-4; 113A-5; 113A-6; 113A-10; 143B-10;
Eff. August 1, 1989;
Transferred from T15.01D .0401; .0402; .0403 Eff. November 1, 1989;
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Repealed Eff. April 1, 2003.

15A NCAC 01C .0304 ACTIVITIES ABOVE THE MINIMUM CRITERIA

History Note: Authority G.S. 113A-2; 113A-4; 113A-6; 113A-11; 143B-10;
Eff. April 1, 2003;
Repealed Eff. June 1, 2022.

15A NCAC 01C .0305 ACTIVITIES UNDERTAKEN BY DEQ

The following activities, when undertaken by DEQ, shall require preparation of an environmental document unless they satisfy the minimum criteria set out in Section .0400 of this Subchapter.

- (1) Construction of facilities or infrastructures on lands and waters owned or managed by DEQ.
- (2) Demolition of or additions, rehabilitation, and or renovations to a structure listed in the National Register of Historic Places or more than 50 years of age except where agreement exists with the Department of Natural and Cultural Resources that the structure lacks architectural or historical significance.
- (3) Ground disturbances involving National Register listed archaeological sites or areas around buildings 50 years old or older, except where agreement exists with the Department of Natural and Cultural Resources.

History Note: Authority G.S. 113A-4; 113A-6; 113A-8; 113A-9; 113A-10; 143B-10;
Eff. April 1, 2003;
Readopted Eff. June 1, 2022.

15A NCAC 01C .0306 ACTIVITIES OF A SPECIAL NATURE

The Secretary may require preparation of an environmental document that would otherwise not be required through application of DEQ's minimum criteria if the Secretary determines:

- (1) the proposed activity may have a potential for significant adverse effects on wetlands; surface waters such as rivers, streams, and estuaries; parklands; game lands; prime agricultural or forest lands; or areas of local, state, or federally recognized scenic, recreational, archaeological, ecological, scientific research, or historical value, including secondary impacts; or would threaten a species identified on the Department of Interior's or the State's threatened and endangered species lists;
- (2) the proposed activity could cause changes in industrial, commercial, residential, agricultural, or silvicultural land use concentrations or distributions which would be expected to create adverse water quality, instream flow, air quality, or ground water impacts; or affect long-term recreational benefits, fish, wildlife, or their natural habitats;
- (3) the proposed activity has secondary impacts, or is part of cumulative impacts, not generally covered in the approval process for the state action, and that may result in a potential risk to human health or the environment; or
- (4) the proposed activity is of such an unusual nature or has such widespread implications that a concern for its environmental effects has been identified by DEQ or expressed to DEQ.

History Note: Authority G.S. 113A-4; 113A-6; 113A-9; 113A-10; 113A-11; 113A-12; 143B-10;
Eff. April 1, 2003;
Readopted Eff. June 1, 2022.

SECTION .0400 – MINIMUM CRITERIA

15A NCAC 01C .0401 AGENCY DECISION-MAKING PROCEDURES

15A NCAC 01C .0402 LIMITATION ON ACTIONS DURING NCEPA PROCESS

15A NCAC 01C .0403 EMERGENCIES

15A NCAC 01C .0404 NON-STATE INVOLVEMENT AND CONTRACTORS

History Note: Authority G.S. 113A-2; 113A-4; 113A-5; 113A-6; 113A-7; 113A-9; 143B-10;
Eff. August 1, 1989;
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Amended Eff. March 1, 1990;

*Temporary Amendment Eff. August 1, 2000;
Amended Eff. April 1, 2001;
Repealed Eff. April 1, 2003.*

15A NCAC 01C .0405 PURPOSE OF THE MINIMUM CRITERIA THRESHOLDS

If NCEPA requires preparation of an environmental document and DEQ is the state project agency, the minimum criteria set forth in this Section determine when preparation of an environmental document is not required because the action or class of actions have no significant long-term impact on the environment. An activity shall satisfy each applicable minimum criteria threshold to maintain this status. As set out in Rule .0306 of this Subchapter, the Secretary may require preparation of an environmental document that would otherwise not be required through application of DEQ's minimum criteria.

*History Note: Authority G.S. 113A-2; 113A-4; 113A-6; 113A-11; 143B-10;
Eff. April 1, 2003;
Readopted Eff. June 1, 2022.*

15A NCAC 01C .0406 SAMPLING, SURVEY, MONITORING, AND RELATED RESEARCH ACTIVITIES

Sampling, survey, monitoring and research activities do not require the preparation of environmental documents. These activities include, but are not limited to the following:

- (1) Aerial photography projects involving the photographing or mapping of the lands of the state;
- (2) Biology sampling and monitoring of:
 - (a) Fisheries resources through the use of traditional commercial fishing gear, electricity, and rotenone; and
 - (b) Wildlife resources through the use of traditional techniques, including but not limited to traps, drugs, and firearms;
- (3) Soil survey projects involving the sampling or mapping of the soils of the state;
- (4) Establishing stream gaging stations for the purpose of measuring water flow at a particular site;
- (5) Placement of monitoring wells for the purpose of measuring groundwater levels, quantity, or quality;
- (6) Gathering surface or subsurface information on the geology, minerals, or energy resources, of the state.
- (7) Placement and use of geodetic survey control points;
- (8) Other routine survey and resource monitoring activities, or other temporary activities required for research into the environment that do not have adverse effects; and
- (9) Investigation and assessment of sites contaminated with regulated substances.

*History Note: Authority G.S. 113A-4; 113A-6; 113A-9; 113A-10; 113A-11; 113A-12; 143B-10;
Eff. April 1, 2003;
Readopted Eff. June 1, 2022.*

15A NCAC 01C .0407 STANDARD MAINTENANCE OR REPAIR ACTIVITIES

Standard maintenance or repair activities, if needed to maintain the originally defined function of an existing project or facility (but without expansion, increase in quantity, decrease in quality, use, or release of hazardous waste), do not require the preparation of environmental documents. These activities include but are not limited to maintenance and repair of the following:

- (1) Housekeeping projects that maintain a facility's original condition and physical features, including re-roofing and minor alterations where in-kind materials and techniques are used. This also encompasses structures 50 years of age and older and for which no separate law, rule, or regulation dictates a formal review and approval process;
- (2) Roads, bridges, parking lots, and their related facilities;
- (3) Utilities on their existing rights-of-way;
- (4) Surface drainage systems;
- (5) Boat ramps, docks, piers, bulkheads, rip rap, breakwaters and associated facilities;
- (6) Diked, high ground dredge-material disposal areas;

- (7) Activities necessary to fulfill the existing requirements of in-effect permits for the protection of the environment and human health;
- (8) Other maintenance and repair activities on projects that are consistent with previously approved environmental documents; and
- (9) Routine grounds maintenance and landscaping of sidewalks, trails, walls, gates, and related facilities, including outdoor exhibits.

History Note: Authority G.S. 113A-4; 113A-6; 113A-9; 113A-10; 113A-11; 113A-12; 143B-10; Eff. April 1, 2003; Readopted Eff. June 1, 2022.

15A NCAC 01C .0408 MINOR CONSTRUCTION ACTIVITIES

This Rule sets out the general and specific minimum criteria for construction activities. Construction and land disturbing activities that satisfy both the general minimum criteria and any specific minimum criteria applicable to the project do not require preparation of environmental documents.

- (1) General criteria.
 - (a) In the 20 coastal counties, land disturbing activity that:
 - (i) is located more than 575 feet away from waters classified as High Quality Waters (HQW) or impacts less than five acres located all or in part within 575 feet of waters classified as High Quality Waters (HQW);
 - (ii) is located outside of any Outstanding Resource Waters (ORW) watershed or area that requires specific management actions to protect ORW waters as defined in 15A NCAC 02B .0225; and
 - (iii) impacts less than five acres located in any Outstanding Resource Waters (ORW) watershed or in any area that requires specific management actions to protect ORW waters as defined in 15A NCAC 02B .0225.
 - (b) Land disturbing activity outside the 20 coastal counties that:
 - (i) is located more than one mile from waters classified as HQW or impacts less than five acres located within one mile of and draining to waters classified as HQW;
 - (ii) is located outside of any Outstanding Resource Waters (ORW) watershed or area that requires specific management actions to protect ORW waters as defined in 15A NCAC 02B .0225;
 - (iii) impacts less than five acres located in any Outstanding Resource Waters (ORW) watershed or in any area that requires specific management actions to protect ORW waters as defined in 15A NCAC 02B .0225; and
 - (iv) is located more than 25 feet from any waters classified as Trout (Tr) waters or impacts less than five acres located all or in part within 25 feet of any waters classified as Trout (Tr) waters.
 - (c) Channel disturbance and land disturbing activities associated with non-compensatory stream restoration or stream enhancement.
 - (d) Land disturbing activities impacting wetlands if the activity will result in the loss of one acre or less of Class WL wetlands.
 - (e) Land disturbing activities impacting streams if the activity will result in channel disturbance of less than 500 linear feet of perennial streams. Land disturbing activities that impact 500 linear feet or more of perennial streams do not require preparation of an environmental document if stream restoration or stream enhancement is performed.
- (2) Specific Criteria.
 - (a) The following activities related to wastewater treatment systems.
 - (i) Relocation of discharge points within the same river basin;
 - (ii) New discharge facilities with a proposed permitted expansion of less than 500,000 gallons per day and producing an instream waste concentration of less than 33 percent during the 7-day 10-year low flow conditions;
 - (iii) Expansion of an existing discharge facility of less than 500,000 gallons per day additional flow;

- (iv) New surface irrigation, high rate infiltration, or subsurface waste water systems with a proposed permitted capacity not exceeding 100,000 gallons per day;
- (v) Reclaimed water utilization systems with reclaimed water utilization being the sole disposal option with a proposed permitted capacity not exceeding 200,000 gallons per day;
- (vi) New reclaimed water utilization sites with a proposed permitted capacity not to exceed 500,000 gallons per day when the reclaimed water utilization system is required for compliance with any other wastewater disposal permit;
- (vii) New reclaimed water utilization sites with a proposed permitted capacity not to exceed 1,000,000 gallons per day when the reclaimed water utilization system is not required for compliance with any other wastewater disposal permit;
- (viii) New reclaimed water utilization distribution lines;
- (ix) New permits or modification to existing permits for land application of residuals utilization, where less than 10 acres not previously permitted is prior converted within three years or will be converted from a non-plantation forested area to application area;
- (x) New or expanding surface disposal sites disposing less than 3000 dry tons of residuals per year;
- (xi) Gravity sewer extensions with less than three miles of new lines or lines of less than 18 inches in diameter; and
- (xii) New or expanding individual pump stations and associated force mains with a proposed permitted capacity of less than 1750 gallons per minute.
- (b) The following activities related to potable water systems.
 - (i) Improvements to water treatment plants that involve less than 1,000,000 gallons per day added capacity and total design withdrawal less than one-fifth of the 7-day, 10-year low flow of the contributing stream;
 - (ii) Improvements not intended to add capacity to the facility;
 - (iii) Installation of appurtenances in existing rights-of-way for streets or utilities, or water lines and appurtenances less than five miles in length and having only directional bore stream crossings or no stream crossings; and
 - (iv) Construction of water tanks, or booster pumping or secondary or remote disinfection stations.
- (c) Groundwater withdrawals of less than 1,000,000 gallons per day where such withdrawals are not expected to cause alterations in established land use patterns, or degradation of groundwater or surface water quality.
- (d) The following activities related to solid waste disposal:
 - (i) Construction of solid waste management facilities, other than landfills exempt pursuant to G.S. 130A-294 (a)(4), which store, treat, process incinerate, or dispose of less than 350 tons per day (averaged over one year) of solid waste; and
 - (ii) Disposal of solid waste by land application on 100 total acres or less, where less than 10 percent of the total land application area is converted from a non-plantation forested area.
- (e) Construction of a minor source or modification of a minor source of air emissions as defined in 15A NCAC 02D .0530, that are less than 100 tons per year or 250 tons per year as defined therein.
- (f) Construction relating to the reclamation of underground storage tanks and restoration of groundwater quality.
- (g) The construction, repair or removal of dams less than 25 feet in height and having less than 50 acre-feet of effective storage capacity.
- (h) Any new construction for a building that involves all of the following:
 - (i) A footprint of less than 10,000 square feet;
 - (ii) A location that is not a National Register Archaeological site; and
 - (iii) The building's purpose is not for storage of hazardous waste.
- (i) Demolition of or additions, rehabilitation or renovations to a structure not listed in the National Register of Historic places or less than 50 years of age.

- (j) Routine grounds construction and landscaping of sidewalks, trails, walls, gates and related facilities, including outdoor exhibits.
- (k) Installation of on-farm Best Management Practices that meet the standards of the North Carolina Soil and Water Conservation Commission and the federal Natural Resources Conservation Service.
- (l) Construction or remodeling of swimming pools.
- (m) Construction of a new two-lane road in accordance with DOT accepted design practices and DOT standards and specifications involving less than a total of 25 cumulative acres of ground surface limited to a single project, and not contiguous to any other project making use of this provision.
- (n) Expansion of a two-lane road in accordance with DOT accepted design practices and DOT standards and specifications involving less than a total of 10 cumulative acres of ground surface limited to a single project, and not contiguous to any other project making use of this provision.

History Note: Authority G.S. 113A-4; 113A-6; 113A-9; 113A-10; 113A-11; 113A-12; 143B-10; Eff. April 1, 2003; Readopted Eff. June 1, 2022.

15A NCAC 01C .0409 MANAGEMENT ACTIVITIES

Management activities do not require the preparation of environmental documents. These activities include but are not limited to the following:

- (1) Replenishment of shellfish beds through the placement of seed oysters, seed clams or shellfish cultch on marine or estuarine habitats.
- (2) Creation and enhancement of marine fisheries habitat through the establishment of artificial reefs in accordance with the Division of Marine Fisheries' Artificial Reef Master Plan.
- (3) Placement of fish attractors and shelter in public waters managed by the N.C. Wildlife Resources Commission.
- (4) Translocation and stocking of native or naturalized fish and wildlife in accordance with appropriate DEQ species management plans, watershed management plans, or other state agency approved resource management plans.
- (5) Reintroduction of native endangered or threatened species in accordance with state or federal guidelines or recovery plans.
- (6) Production of native and agricultural plant species to create or enhance fish or wildlife habitat and forest resources, including fertilization, planting, mowing, and burning in accordance with fisheries, wildlife, or forestry management plans.
- (7) Forest products harvest in accordance with the forestry Best Management Practices (BMPs) and the performance standards in the Forest Practice Guidelines (FPGs) Related to Water Quality (02 NCAC 60C) and the United States Forest Service or the N.C. Division of Forest Resources forest management plans.
- (8) Reforestation of woodlands in accordance with the United States Forest Service or the N.C. Division of Forest Resources forest management plans.
- (9) Use of forestry best management practices to meet the performance standards in Forest Practice Guidelines Related to Water Quality codified as in 02 NCAC 60C.
- (10) The control of forest or agricultural insects and disease outbreaks by biological treatments, mechanical treatments, or the lawful application of labeled pesticides by licensed applicators, or any combination of those practices, on areas of no more than 100 acres.
- (11) Control of species composition on managed forestlands as prescribed by approved forest management plans by the lawful application of labeled herbicides by licensed applicators, on areas no more than 100 acres.
- (12) Control of aquatic weeds in stream channels, canals and other water bodies, by the lawful application of labeled herbicides by licensed applicators pursuant to Article 15, Chapter 113A of the NC General Statutes.
- (13) Removal of logs, stumps, trees, and other debris from stream channels where there is no channel excavation, and activities are carried out in accordance with "Best Management Practices (BMPs) for Selective Clearing and Snagging," Appendix B in Incremental Effects of Large Woody Debris

Removal on Physical Aquatic Habitat, US Army Corps of Engineers Technical Report EL-92-35, Smith et al, 1992, or other guidelines approved through the Intergovernmental Review process as set out at 01 NCAC 25 .0211.

- (14) Dredging of existing navigation channels and basins to originally approved specifications, provided that the spoil is placed in existing and approved high ground disposal areas.
- (15) Controlled or prescribed burning for wildlife, timber enhancement, and hazard reduction in accordance with applicable management plans.
- (16) Plowing fire lines with tractor plow units, or other mechanized equipment, for the purpose of suppressing wildland (brush, grass, or woodland) fires and prescribed burning.
- (17) Scooping or dipping water from streams, lakes, or sounds with aircraft or helicopters for the purpose of suppressing wild land (brush, grass, or woodland) fires.
- (18) Drainage projects where the mean seasonal water table elevation will be lowered less than one foot over an area of one square mile or less, and riparian and wetland areas will not be affected.
- (19) Manipulation of water levels in reservoirs or impoundments in accordance with approved management plans, for the purpose of providing for water supply storage, flood control, recreation, hydroelectric power, fish and wildlife, downstream water quality and aquatic weed control.
- (20) Installation of on-farm Best Management Practices that meet the standards of the North Carolina Soil and Water Conservation Commission and the federal Natural Resources Conservation Service.
- (21) Continuation of previously permitted activities where no increase in quantity or decrease in quality are proposed.
- (22) Acquisition or acceptance of real property to be retained in a totally natural condition for its environmental benefits.
- (23) Acquisition or acceptance of real property to be managed in accordance with plans for which environmental documents have been approved.
- (24) Care of all trees, plants, and groundcovers on public lands.
- (25) Care, including medical treatment, of all animals maintained for public display.
- (26) Activities authorized for control of mosquitoes such as the following:
 - (a) Mosquito control water management work in freshwater streams performed in accordance with "Best Management Practices (BMPs) for Selective Clearing and Snagging" Appendix B in Incremental Effects of Large Woody Debris Removal on Physical Aquatic Habitat, US Army Corps of Engineers Technical Report EL-92-35, Smith et al, 1992, or other guidelines reviewed through the Intergovernmental Review process as set out at 01 NCAC 25 .0211;
 - (b) Mosquito control water management work in salt marsh environments performed under Open Marsh Water Management guidelines reviewed through the Intergovernmental Review process as set out at 01 NCAC 25 .0211;
 - (c) Lawful application of chemicals approved for mosquito control by the United States Environmental Protection Agency and the State when performed under the supervision of licensed operators; and
 - (d) Lawful use of established species to control mosquitoes.

History Note: Authority G.S. 113A-4; 113A-6; 113A-9; 113A-10; 113A-11; 113A-12; 143B-10;
Eff. April 1, 2003;
Readopted Eff. June 1, 2022.

15A NCAC 01C .0410 PRIVATE USE OF PUBLIC LANDS

Activities related to the private use of public lands, when conducted in accordance with permit requirements, do not require the preparation of environmental documents. These activities include but are not limited to the following:

- (1) use of pound nets;
- (2) shellfish, relaying and transplanting;
- (3) harvest of shellfish during closed season;
- (4) special fisheries management activities under 15A NCAC 03O .0506;
- (5) aquaculture operations within coastal waters;
- (6) scientific collecting within coastal waters;

- (7) introduction and transfer of marine and estuarine organisms.

History Note: Authority G.S. 113A-4; 113A-6; 113A-9; 113A-10; 113A-11; 113A-12; 143B-10;
Eff. April 1, 2003;
Readopted Eff. June 1, 2022.

15A NCAC 01C .0411 REMEDIATION ACTIVITIES

Activities that seek to clean up, remove, remediate, abate, contain, or otherwise protect public health or the environment from the effect of contamination released to the environment do not require the preparation of environmental documents.

History Note: Authority G.S. 113A-4; 113A-6; 113A-9; 113A-10; 113A-11; 113A-12; 143B-10;
Eff. April 1, 2003;
Readopted Eff. June 1, 2022.

15A NCAC 01C .0412 HURRICANE RELIEF ACTIVITY WITH MINIMUM POTENTIAL FOR ENVIRONMENTAL EFFECTS

History Note: Authority G.S. 113A-4; 113A-6; 113A-11; 143B-10;
Emergency Adoption Eff. April 25, 2005;
Temporary Adoption Eff. July 29, 2005;
Temporary Adoption Expired on May 12, 2006.

SECTION .0500 - MINIMUM CRITERIA

15A NCAC 01C .0501 PURPOSE

15A NCAC 01C .0502 MAJOR ACTIVITIES

15A NCAC 01C .0503 EXCEPTIONS TO MINIMUM CRITERIA

History Note: Authority G.S. 113A-2; 113A-4; 113A-6; 113A-9; 113A-10; 113A-11; 113A-12; 143B-10;
Eff. August 1, 1989;
Transferred from T15.01D .0601; .0602; .0603 Eff. November 1, 1989;
Amended Eff. August 1, 1996; March 1, 1990;
Repealed Eff. April 1, 2003.

15A NCAC 01C .0504 NON-MAJOR ACTIVITY

History Note: Authority G.S. 113A-4; 113A-6; 113A-9; 113A-10; 113A-11; 113A-12; 143B-10;
Eff. August 1, 1989;
Transferred from T15.01D .0604 Eff. November 1, 1989;
Temporary Amendment Eff. December 7, 1992 for a Period of 180 Days or Until the Permanent Rule Becomes Effective, Whichever is Sooner;
Amended Eff. August 1, 1996; March 1, 1993;
Repealed Eff. April 1, 2003.

15A NCAC 01C .0505 NON-MAJOR HURRICANE RELIEF ACTIVITY

History Note: Authority G.S. 113A-4; 113A-6; 113A-11; 143B-10; S.L. Ex. Session 1999-463, Part IV, c.463, s. 4;
Temporary Adoption Eff. February 4, 2000 to expire on January 1, 2003;
Temporary Adoption expired January 1, 2003.