

Existing Law Session Law 2009-486

SECTION 3.(a) Applicability of section to certain reservoirs. – This section applies only to drinking water supply reservoirs that meet all of the following criteria as of 1 July 2005:

- (1) The reservoir serves a population greater than 300,000 persons.
- (2) The Environmental Management Commission has classified all or any part of the water in the reservoir as a nutrient sensitive water (NSW).
- (3) Water quality monitoring data indicates that water quality in the reservoir violates the chlorophyll A standard.
- (4) The Division of Water Quality of the Department of Environment and Natural Resources has not prepared or updated a calibrated nutrient response model for the reservoir since 1 July 2002.

SECTION 3.(h) Additional standards for land-disturbing activities in the water supply watershed. – For purposes of this section, "land-disturbing activity" does not include the land-disturbing activities set out in G.S. 113A-52.01. In addition to any other requirements of State, federal, and local law, land-disturbing activity in the watershed of the water supply reservoir to which this section applies shall meet all of the following design standards for sedimentation and erosion control:

- (1) Erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the runoff of the 25-year storm that produces the maximum peak rate of runoff as calculated according to procedures set out in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States or any generally recognized organization or association.
- (2) Sediment basins shall be planned, designed, and constructed so that the basin will have a settling efficiency of at least seventy percent (70%) for the 40-micron size soil particle transported into the basin by the runoff of the two-year storm that produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States or any generally recognized organization or association.
- (3) Newly constructed open channels shall be planned, designed, and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization unless soil conditions permit steeper slopes or where the slopes are stabilized by using mechanical devices, structural devices, or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.
- (4) For an area of land-disturbing activity where grading activities have been completed, temporary or permanent ground cover sufficient to restrain erosion shall be provided as soon as practicable, but in no case later than seven days after completion of grading. For an area of land-disturbing activity where grading activities have not been completed, temporary ground cover shall be provided as follows:

- a. For an area with no slope, temporary ground cover shall be provided for the area if it has not been disturbed for a period of 14 days.
- b. For an area of moderate slope, temporary ground cover shall be provided for the area if it has not been disturbed for a period of 10 days. For purposes of this subdivision, "moderate slope" means an inclined area, the inclination of which is less than or equal to three units of horizontal distance to one unit of vertical distance.
- c. For an area of steep slope, temporary ground cover shall be provided for the area if it has not been disturbed for a period of seven days. For purposes of this subdivision, "steep slope" means an inclined area, the inclination of which is greater than three units of horizontal distance to one unit of vertical distance.

Existing Rule

15A NCAC 04B .0124 DESIGN STANDARDS IN SENSITIVE WATERSHEDS

- (a) Uncovered areas in HQW zones shall be limited at any time to a maximum total area within the boundaries of the tract of 20 acres. Only the portion of the land-disturbing activity within a HQW zone shall be governed by this Rule. Larger areas may be uncovered within the boundaries of the tract with the written approval of the Director.
- (b) Erosion and sedimentation control measures, structures, and devices within HQW zones shall be so planned, designed and constructed to provide protection from the runoff of the 25 year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agricultural Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
- (c) Sediment basins within HQW zones shall be designed and constructed such that the basin will have a settling efficiency of at least 70 percent for the 40 micron (0.04mm) size soil particle transported into the basin by the runoff of that two-year storm which produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Services "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of this state or the United States or any generally recognized organization or association.
- (d) Newly constructed open channels in HQW zones shall be designed and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization unless soil conditions permit a steeper slope or where the slopes are stabilized by using mechanical devices, structural devices or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.
- (e) Pursuant to G.S. 113A-57(3) provisions for a ground cover sufficient to restrain erosion must be provided for any portion of a land-disturbing activity in a HQW zone within 15 working days or 60 calendar days following completion of construction or development, whichever period is shorter.

**Proposed Rule—Technical Advisory Committee Recommendation
15A NCAC 04B .0132**

In addition to any other requirements of State, federal, and local law, land-disturbing activity in the Upper Neuse River Basin (HUC 03020201) shall meet all of the following design standards for sedimentation and erosion control:

(1) Erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the runoff of the 25-year storm that produces the maximum peak rate of runoff as calculated according to procedures set out in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States or any generally recognized organization or association.

(2) Sediment basins shall be planned, designed, and constructed so that the basin will have a settling efficiency of at least seventy percent (70%) for the 40-micron size soil particle transported into the basin by the runoff of the two-year storm that produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States or any generally recognized organization or association.

(3) Newly constructed open channels shall be planned, designed, and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization unless soil or geologic conditions permit steeper side slopes or where the side slopes are stabilized by using mechanical devices, structural devices, or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

(4) Stabilization of disturbed areas must be provided within 10 calendar days wherever land-disturbing activities have ceased, or have temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Extensions may be considered by the plan approving authority.

Proposed Rule—Staff Recommendation
15A NCAC 04B .0132

15A NCAC 04B .0132—Design Standards for the Upper Neuse River Basin (Falls Lake Watershed)

In addition to any other requirements of State, federal, and local law, land-disturbing activity in the watershed of the drinking water supply reservoir that meets the applicability requirements of Session Law 2009-486, Section 3.(a), shall meet all of the following design standards for sedimentation and erosion control:

(1) Erosion and sedimentation control measures, structures, and devices shall be planned, designed, and constructed to provide protection from the runoff of the 25-year storm that produces the maximum peak rate of runoff as calculated according to procedures set out in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States or any generally recognized organization or association.

(2) Sediment basins shall be planned, designed, and constructed so that the basin will have a settling efficiency of at least seventy percent (70%) for the 40-micron size soil particle transported into the basin by the runoff of the two-year storm that produces the maximum peak rate of runoff as calculated according to procedures in the United States Department of Agriculture Soil Conservation Service's "National Engineering Field Manual for Conservation Practices" or according to procedures adopted by any other agency of the State or the United States or any generally recognized organization or association.

(3) Newly constructed open channels shall be planned, designed, and constructed with side slopes no steeper than two horizontal to one vertical if a vegetative cover is used for stabilization unless soil conditions permit steeper side slopes or where the side slopes are stabilized by using mechanical devices, structural devices, or other acceptable ditch liners. In any event, the angle for side slopes shall be sufficient to restrain accelerated erosion.

(4) Stabilization of disturbed areas shall be provided within 10 calendar days wherever land-disturbing activities have ceased, or have temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Extensions may be approved by the Sedimentation Control Commission or a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60.

Existing Statutes and Rules

N.C.G.S. 113A-57

(3) Whenever land-disturbing activity that will disturb more than one acre is undertaken on a tract, the person conducting the land-disturbing activity shall install erosion and sedimentation control devices and practices that are sufficient to retain the sediment generated by the land-disturbing activity within the boundaries of the tract during construction upon and development of the tract, and shall plant or otherwise provide a permanent ground cover sufficient to restrain erosion after completion of construction or development within a time period to be specified by rule of the Commission.

15 NCAC 04B .0107

(b) Pursuant to G.S. 113A-57(3), provisions for a ground cover sufficient to restrain erosion must be accomplished within 15 working days or 90 calendar days following completion of construction or development, whichever period is shorter, except as provided in 15A NCAC 4B .0124(e).

CFR § 450.21 Effluent limitations reflecting the best practicable technology currently available (BPT).

(b) *Soil Stabilization.* Stabilization of disturbed areas must, at a minimum, be initiated immediately whenever any clearing, grading, excavating or other earth disturbing activities have permanently ceased on any portion of the site, or temporarily ceased on any portion of the site and will not resume for a period exceeding 14 calendar days. Stabilization must be completed within a period of time determined by the permitting authority. In arid, semiarid, and drought-stricken areas where initiating vegetative stabilization measures immediately is infeasible, alternative stabilization measures must be employed as specified by the permitting authority.

Proposed Amended Rule

15 NCAC 04B .0107

(b) Pursuant to G.S. 113A-57(3), ~~provisions for a ground cover sufficient to restrain erosion must be accomplished within 15 working days or 90 calendar days following completion of construction or development, whichever period is shorter,~~ a temporary or permanent ground cover sufficient to restrain erosion must be provided within 14 calendar days wherever land-disturbing activities have permanently ceased on any portion of the site. Permanent ground cover sufficient to restrain erosion must be established within 60 calendar days following completion of construction or development, other than small disturbances (less than one-half acre), except that permanent ground cover sufficient to restrain erosion must be established within 90 calendar days following completion of construction or development, other than small disturbances (less than one-half acre), in the following counties: Alexander, Alleghany, Ashe, Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Surry, Swain, Transylvania, Watauga, Wilkes and Yancey; and except as provided in 15A NCAC 4B .0124(e).