

Sedimentation Control Commission 101

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Sedimentation Control Commission Statutes and Rules

- [Sedimentation Laws](#)
- [Sedimentation Rules](#)

Sedimentation Control Commission composition and responsibilities

How many members are on the Sedimentation Control Commission? 12 members from a variety of disciplines.

What is quorum? Quorum is the minimum number of members present to conduct any business. Unless otherwise specified, quorum is 1 more than 50% of the number of members. For the SCC, quorum is 7 members.

What does SCC do? SCC administers the State's Sedimentation Control Act. Essential functions of the SCC are to adopt rules to implement the law, approve and monitor local sedimentation programs and ensure sedimentation laws and rules are being followed. SCC works closely with the Department of Environmental Quality's Division of Energy, Minerals and Land Resources to provide guidance to local programs and the public on sedimentation issues. Uniquely, SCC can conduct remission hearings to reduce the penalties of some violators based on statutory criteria.

- [SCC Internal Operating Procedures](#)

Open Meetings Law

What is an Open Meeting? An open meeting is a meeting of 1) a public body (including committees) 2) where a majority of members are present 3) for the purpose of conducting business. Open meetings can occur at any time or place including by simultaneous electronic communication.

What is a Closed Meeting? A meeting that is closed to the public because of specific statutory reasons including preventing disclosure of confidential information that is not a public record, and to consult with an attorney in order to preserve attorney-client privilege.

To call a closed meeting, there must be a motion and a second and the motion must state the statutory reason for the closed meeting. Once in a closed meeting, a commission cannot discuss anything not related to the reason for the closed meeting.

What happens if Open Meetings law is violated? Any person can sue a public body for violations of the Open Meetings law and request remedies including injunctive relief. A court may assess reasonable attorney fees against the losing party including against any individual member or members personally if they are found to knowingly and intentionally violate Open Meetings Law.

[NC Open Meetings Law](#)

Public Records Law

What is a public record? Any record made in any medium that is made or received related to the transaction of public business by any unit of government (agencies, commissions, local government, public universities) Content of the record, not location determine whether it is a public record.

Who can ask for a public record? Anyone can request a public record. There is no required format for requesting a public record and records must be provided for free or minimal cost.

How are public records produced? Records must be produced as promptly as possible. The State does not have an obligation to create records that do not exist at the time of the request. Requesters can seek judicial intervention if records are not timely produced and courts can assess attorney fees against public body.

How long are records kept? Public records may not be disposed of without the consent of the NC Department of Natural and Cultural Resources (DNCR). DNCR maintains a record retention policy as well as conducts routine trainings on records retention.

What are exceptions to Public Records Law? There are many exceptions to public records law such as attorney-client communications, confidential tax information, personnel information, and closed session minutes. Crucially, most are only exempt for a certain period of time.

Attorney-client communication is only exempt if 1) it is from counsel; 2) to commissioner; 3) made within the scope of attorney-client relationship; 4) concerning claims against the

Commission OR addresses litigation that the commission is either a party or directly impacted.

[NC Public Records Law](#)

Rulemaking

What is a rule? A rule is a regulation or standard that implements or interprets a statute. There are permanent, temporary and emergency rules that all have their own requirements for process, notice and public comment.

What is periodic review of rules? Rules need to be reviewed every 10 years to make sure the rules are necessary and within the agency's authority under statute.

Remissions

What are remissions hearings? Remission hearings are Quasi-Judicial hearings to determine if civil penalties should be reduced for a specific project. Remissions are requested by the violator, in order to request have to waive ability to appeal the violation itself. Remissions are heard by Remissions Committee. In a remission hearing, the Committee can decide to decrease or eliminate civil penalties but cannot increase the assessed penalties.

- Factors to determine if a remission is appropriate are: [N.C.G.S. 113A-64.2](#)
 - o Whether the civil penalty factors were wrongly applied to the detriment of the petitioner
 - o Whether petitioner promptly abated continuing environmental damage from violation
 - o Whether violation was an accident or inadvertent
 - o Whether petition had previous civil penalties for violations
 - o Whether paying civil penalties will prevent payment for remedial actions or otherwise cause significant financial hardship
 - o Assessed property tax value of petitioner's property where violations occurred excluding any structures

What are quasi-judicial proceedings? Quasi-judicial proceedings are hearings where impartial and unbiased decision-makers must review and evaluate evidence in the record to determine the outcome of the individual matter. The decision must be based solely on

information in the record; the parties will stipulate, or agree, to the facts in a remission hearing.

Additional Resources

- [DOJ Open Government Handbook](#)