

## TITLE 15A – DEPARTMENT OF ENVIRONMENTAL QUALITY

*Notice is hereby given in accordance with G.S. 150B-21.2 that the Department of Environmental Quality intends to adopt the rules cited as 15A NCAC 01X .0101-.0106, .0201-.0203, and .0301-.0303.*

**Link to agency website pursuant to G.S. 150B-19.1(c):** <https://www.deq.nc.gov/accessdeq/rules-regulations/deq-proposed-rules/proposed-rules>

**Proposed Effective Date:** July 1, 2025

**Public Hearing:**

**Date:** March 18, 2025

**Time:** 6:00 p.m.

**Location:** Ground Floor Hearing Room, DEQ Archdale Building, 512 N. Salisbury Street, Raleigh, NC 27604, or virtually using Cisco WebEx, Digital Hearing Link: <https://ncgov.webex.com/ncgov/j.php?MTID=m6d503373f4f2ee9cda2aed919f11d29e>

**Meeting Password:** 3ZxNYsP323E (39969773 when dialing from a phone or video system)

**Audio conference:** To receive a call back, provide your phone number when you join the event, or call the number below and enter the access code. US TOLL +1-415-655-0003, Access code: 242 253 32079

If you wish to provide public comments via Webex at the public hearing, you must register, provide the required information, and follow instructions on ways to join the public hearing. Registration must be completed by 5:00 PM on March 17, 2025. To register, please send an email to [adam.parr@deq.nc.gov](mailto:adam.parr@deq.nc.gov) containing the subject line "Express Permitting Rules", your name, affiliation, and a statement that you wish to speak via Webex at the public hearing.

\*For instructions on ways to join the public hearing, please refer to the following link: <https://www.deq.nc.gov/about/boards-and-commissions/how-attend-webex-meeting-0>

**Reason for Proposed Action:** The adoption of proposed rules 15A NCAC 01X .0101-.0106, .0201-.0203, and .0301-.0303, "Express Permitting," is in response to the requirement for DEQ to adopt rules pursuant to S.L. 2023-134, s. 12.13.(b). The rules provide additional detail, clarification, and consistency for the review of requests for express permitting in the Express Review Program established under G.S. 143B-279.13, and establishes the permits to which the program applies, the eligibility requirements for applicants desiring express review, the submission requirements for requests for express review and related applications, the procedures by which requests for express review will be evaluated, and the timelines under which accepted applications will be processed.

**Comments may be submitted to:** Adam Parr, 1612 Mail Service Center, Raleigh, NC 27699-1612; email: [adam.parr@deq.nc.gov](mailto:adam.parr@deq.nc.gov) (Please type "Express Permitting Rules" in subject line)

**Comment period ends:** May 2, 2025

**Procedure for Subjecting a Proposed Rule to Legislative Review:** If an objection is not resolved prior to the adoption of the rule, a person may also submit a written objection to the Rules Review Commission. If the Rules Review Commission receives written and signed objections after the adoption of the Rule in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive letters via U.S. Mail, private courier service, or hand delivery to 1711 New Hope Church Road, Raleigh, North Carolina, or via email to [oah.rules@oah.nc.gov](mailto:oah.rules@oah.nc.gov). If you have any further questions concerning the submission of objections to the Commission, please review 26 NCAC 05 .0110 or call a Commission staff attorney at 984-236-1850.

**Fiscal impact. Does any rule or combination of rules in this notice create an economic impact? Check all that apply.**

- State funds affected
- Local funds affected
- Substantial economic impact ( $\geq$  \$1,000,000)
- Approved by OSBM
- No fiscal note required

### CHAPTER 01 - DEPARTMENTAL RULES

#### SUBCHAPTER 01X – EXPRESS PERMITTING

#### SECTION .0100 – EXPRESS PERMITTING

#### 15A NCAC 01X .0101 PURPOSE

The purpose of these Rules is to set forth the processes and procedures for implementation of the Department's express review program to provide expedited permit and certification reviews for certain new or modified permits, plans or certifications.

*History Note:* Authority G.S. 143B-279.13; S.L. 2023-134, s. 12.13.(b);

Eff. July 1, 2025.

### **15A NCAC 01X .0102 DEFINITIONS**

For purposes of this Subchapter,

- (1) "Acceptance Date" means the assigned date upon which the Department will begin the formal review of an Application after granting a Request for Express Review;
- (2) "AccessDEQ" means the Department's online portal for electronic permit applications, which can be found at <https://portal.deq.nc.gov>. In the event AccessDEQ is unavailable for a specific type of Application, alternative submissions may be made to the regional office with jurisdiction over the project location in the form of either one electronic copy or two paper copies of the Application;
- (3) "Application" means the materials to be reviewed by the applicable program once a Request for Express Review has been granted;
- (4) "Department" means the North Carolina Department of Environmental Quality;
- (5) "ESC Plan" means an Erosion and Sedimentation Control Plan submitted pursuant to G.S. 113A, Article 4.
- (6) "Experienced Consultant" means an individual that has received from the Department 25 ESC Plan approvals or 5 issued PCSW Permits, specific to the type of Application for which a Request for Express Review is being made;
- (7) "PCSW Permit" means Coastal Post-Construction Stormwater Permits submitted pursuant to G.S. 143, Article 21, Part 1;
- (8) "Pre-Application Review Meeting" means the initial meeting between the Applicant or the Experienced Consultant, and the Department to perform a preliminary review all materials submitted as part of the Request for Express Review and Application to make a determination regarding whether the Request for Express Review should be granted or denied as well as provide initial feedback of the Application Materials. The Department is under no obligation to perform any form of technical review of the materials submitted prior to the meeting; and
- (9) "Request for Express Review" means the initial submission requesting consideration for express review, including all applicability, eligibility and availability reviews;

*History Note:* Authority G.S. 143B-279.13; S.L. 2023-134, s. 12.13.(b);  
Eff. July 1, 2025.

### **15A NCAC 01X .0103 APPLICABILITY**

The rules in this Subchapter apply to the submission and review of Requests for Express Review of Applications for the following permits, plans or certifications:

- (1) Coastal Post-Construction Stormwater Permits pursuant to G.S. 143, Article 21, Part 1; and
- (2) Erosion and Sedimentation Control Plans pursuant to G.S. 113A, Article 4.

*History Note:* Authority G.S. 143B-279.13; S.L. 2023-134, s. 12.13.(b);  
Eff. July 1, 2025.

### **15A NCAC 01X .0104 REQUESTS FOR EXPRESS REVIEW**

In addition to the information required in Rules .0202 and .0302 of this Subchapter, a Request for Express Review shall be submitted on a form including:

- (1) Applicant name and contact information;
- (2) Experienced Consultant name and contact information;
- (3) Project name, location, and receiving waters;
- (4) Narrative description of the project, including its various features, impacts and proximity to surface waters identified in Item (5) of this Rule;
- (5) Vicinity map identifying the project area, GPS coordinates, and any nearby surface waters including Class SA waters as identified in 15A NCAC 02B .0221, Outstanding Resource Waters as identified in 15A NCAC 02B .0225, High Quality Waters, as identified in 15A NCAC 02B .0224, or Trout Waters, as defined in 15A NCAC 02B .0202(58), 15A NCAC 02B .0221, 15A NCAC 02B .0224 and 15A NCAC 02B .0202 are incorporated by reference, including subsequent amendments;
- (6) Site plan identifying the boundaries of all surface waters, wetlands, regulatory flood zones, protected vegetated setbacks, and protected riparian buffers;
- (7) A list of all existing State or Federal permits, plans, certifications or approvals related to the project; and
- (8) A list of all other State or Federal permits, plans, certifications or approvals necessary to conduct the project and their current status.

*History Note:* Authority G.S. 113A-54.1; 113A-57; 143-214.7; 143B-279.13; S.L. 2023-134, s. 12.13.(b);  
Eff. July 1, 2025.

### **15A NCAC 01X .0105 GRANTING REQUESTS FOR EXPRESS REVIEW**

The Department shall grant Requests for Express Review that are determined to be complete and eligible, in accordance with Rule .0104 of this Section, and Rules .0201, .0202, .0301 and .0302 of this Subchapter. The Department shall not grant a Request for Express Review if it determines it is incomplete or if the review of the Application cannot be completed within the deadlines established in Rules .0203 and .0303 of this Subchapter due to:

- (1) staffing vacancies or absences;
- (2) existing workloads;
- (3) emergencies; or
- (4) other factors that would conflict with the purposes or requirements of G.S. 143B-279.13 or would prevent an Application from being reviewed prior to the deadlines established in Rules .0203 and .0303 of this Subchapter.

*History Note:* Authority G.S. 143B-279.13; S.L. 2023-134, s. 12.13.(b);  
Eff. July 1, 2025.

### **15A NCAC 01X .0106 PROCESSING OF REQUESTS FOR EXPRESS REVIEW**

The processing of Requests for Express Review shall be performed as follows:

- (1) To be considered for express review under these Rules, an applicant shall submit a Request for Express Review and intake fee via AccessDEQ, including the information required pursuant to Rule .0104 of this Section, and Rules .0202, and .0302 of this Subchapter. Current fees may be found at <https://www.deq.nc.gov/accessdeq/express-permitting> or in AccessDEQ. The Department shall provide the applicant with notice once the necessary fees have been received. Fees are nonrefundable.
- (2) Upon receipt of a Request for Express Review and intake fee, the Department shall perform an administrative review to make an initial determination of applicability pursuant to Rule .0103 of this Section, eligibility pursuant to Rules .0201 and .0301 of this Subchapter and availability pursuant to Rule .0105 of this Section. The Department is under no obligation to perform any form of technical review of the materials submitted prior to the Pre-Application Review Meeting.
- (3) Once an initial determination of applicability, eligibility and availability is made by the Department, notice shall be provided to the applicant and a Pre-Application Review Meeting shall be scheduled with the applicant and their Experienced Consultant.
- (4) During the Pre-Application Review Meeting, the Department, applicant or applicant's Experienced Consultant shall discuss the project, jointly review the submitted application materials and advise regarding any initially identified deficiency issues. If the Request for Express Review involves a PCSW Permit, both the applicant and applicant's Experienced Consultant shall be required to attend the Pre-Application Review Meeting. If, during the Pre-Application Review Meeting, it is determined that the project is ineligible for express review or the Application is incomplete, the Request for Express Review may be denied. If required information is identified as missing during the Pre-Application Review Meeting, an extension may be granted for up to three business days to submit the required information, after which time a determination regarding the Request for Express Review shall be made. If these identified items are not submitted by the extension deadline, the Request for Express Review shall be considered incomplete and shall be denied.
- (5) If the Request for Express Review is granted, the next available Acceptance Date shall be assigned to the Application and the application review shall proceed in accordance with Rule .0203 or .0303 of this Subchapter.
- (6) Once an Acceptance Date is assigned to the Application, the applicant shall submit the necessary fees via AccessDEQ or by check submitted to the to the regional office with jurisdiction over the project location. Current fees may be found at <https://www.deq.nc.gov/accessdeq/express-permitting> or in AccessDEQ. The Department shall provide the applicant with notice once the necessary fees have been received. Fees are nonrefundable.
- (7) If the necessary fees have not been received by the Department via AccessDEQ or by check submitted to the to the regional office with jurisdiction over the project location one business day prior to the Acceptance Date, the Acceptance Date shall be cancelled.
- (8) If the Department determines, after granting the Request for Express Review, that the project is ineligible for express review, the Department shall conclude the Express Review in accordance with Rules .0203(4) or .0303(4) of this Subchapter.
- (9) Receipt of an Application as part of a Request for Express Review shall not constitute receipt or submission of an application for purposes of the timeframes set forth in G.S. 143-214.7(b6) or in G.S. 113A-54.1(a).

*History Note:* Authority G.S. 143B-279.13; S.L. 2023-134, s. 12.13.(b);  
Eff. July 1, 2025.

### **SECTION .0200 – COASTAL POST-CONSTRUCTION STORMWATER PERMITS**

#### **15A NCAC 01X .0201 PROJECT ELIGIBILITY**

The following PCSW Permit Applications shall be ineligible for express review:

- (1) PCSW Permit Applications submitted by an individual who does not meet the requirements of being an Experienced Consultant familiar with coastal soil performance and stormwater control design standards and specifications in North Carolina.
- (2) Transfers.
- (3) Renewals.
- (4) Applications for high density projects that propose or modify four or more primary stormwater control measures, as defined in 15A NCAC 02H .1002(37), 15A NCAC 02H .1002 is incorporated by reference, including subsequent amendments.

- (5) Applications for projects that will impact another PCSW Permit, unless Applications for both projects are submitted jointly.
- (6) Applications for projects that will overlap with another PCSW Permit, unless Applications for both projects are submitted jointly.
- (7) Applications for projects whose construction or permitting would cause another PCSW Permit to become out of compliance, unless Applications for both projects are submitted jointly.
- (8) Applications for projects that would require a variation pursuant to 15A NCAC 02H .1003(6) or would modify a project subject to a variation previously granted, 15A NCAC 02H .1003 is incorporated by reference, including subsequent amendments.
- (9) Applications for projects that would require a Director's Certification pursuant to 15A NCAC 02H .1040(7) or would modify a project subject to a Director's Certification previously granted, 15A NCAC 02H .1040 is incorporated by reference, including subsequent amendments.
- (10) Applications for projects that are out of compliance at the time of submission or review, unless approval of the Application would bring the project into compliance. This provision does not allow applicants to apply for renewal of expired PCSW Permits as part of a Request for Express Review.
- (11) Applications that have been previously returned pursuant to Rule .0203(4) of this Section or 15A NCAC 02H .1042(3)(a)(ii) or denied pursuant to 15A NCAC 02H .1040(5), 15A NCAC 02H .1042 is incorporated by reference, including subsequent amendments.
- (12) Applications for projects that the Department determines to be too complex, unconventional or irregular or that utilize New Stormwater Technologies approved pursuant to 15A NCAC 02H .1050(15) that have been approved by the Department for less than five years, 15A NCAC 02H .1050 is incorporated by reference, including subsequent amendments.
- (13) Applications for projects that do not provide all submission requirements from Rule .0202 of this Section.

*History Note:* Authority G.S. 143B-279.13; S.L. 2023-134, s. 12.13.(b);  
Eff. July 1, 2025.

#### **15A NCAC 01X .0202 APPLICATION SUBMISSION REQUIREMENTS**

Applications shall include:

- (1) The type of permitting action and the type of PCSW Permit or approval being requested;
- (2) A list of the number and type of stormwater control measures intended to be utilized in the project;
- (3) A drainage area map depicting the location of all stormwater control measures within the project;
- (4) The Supplement form found at <https://www.deq.nc.gov/about/divisions/energy-mineral-and-land-resources/stormwater/stormwater-program/stormwater-design-manual> summarizing compliance with 15A NCAC 02H .1000 requirements, 15A NCAC 02H .1000 is incorporated by reference, including subsequent amendments; and
- (5) State stormwater management permit application materials listed in 15A NCAC 02H .1042(2)(a) through (m).

*History Note:* Authority G.S. 143-214.7; 143B-279.13; S.L. 2023-134, s. 12.13.(b);  
Eff. July 1, 2025.

#### **15A NCAC 01X .0203 REVIEW OF APPLICATIONS**

The review of a PCSW Permit Application shall proceed as follows:

- (1) Upon granting a Request for Express Review pursuant to Rule .0106(5) of this Subchapter, the Department shall review the Application within 10 business days of the Acceptance Date and shall make a determination to:
  - (a) Issue or deny the PCSW Permit pursuant to 15A NCAC 02H .1040;
  - (b) Request additional information pursuant to 15A NCAC 02H .1042(3)(a)(i); or
  - (c) Extend the review deadline upon agreement by both the Department and the applicant.
- (2) When a request for additional information is made by the Department, the applicant shall respond with the requested information within five business days from receipt of the request, beginning the first business day after the request is received. A single, five business day extension may be granted by the Department upon receipt of a justification for the request for extension prior to the expiration of the initial five business day response period.
- (3) Upon receipt of the information in Item (2) of this Rule, the Department shall review the Application and additional information within five business days, starting with the first business day after receipt and shall make a determination in accordance with Item (1) of this Rule.
- (4) No more than two requests for additional information shall be made under this Rule. If additional information, clarification or revision is required after two requests, or if the Department determines, after granting the Request for Express Review, that the project is ineligible for express review, the Application shall be returned in accordance with the procedures set forth in 15A NCAC 02H .1042(3)(a)(ii) and the applicant shall be required to resubmit the Application to the standard permit review process with a new application fee.

*History Note:* Authority G.S. 143-214.7; 143B-279.13; S.L. 2023-134, s. 12.13.(b);  
Eff. July 1, 2025.

### **SECTION .0300 – EROSION AND SEDIMENTATION CONTROL PLANS**

### **15A NCAC 01X .0301 PROJECT ELIGIBILITY**

The following Erosion and Sedimentation Control Plan Applications shall be ineligible for express review:

- (1) ESC Plans submitted by an individual who does not meet the requirements of being an Experienced Consultant familiar with soil performance and erosion control design standards and specifications in North Carolina.
- (2) ESC Plans submitted where the financially responsible party, pursuant to 15A NCAC 04B .0118(c), is currently subject to a Notice of Violation issued pursuant to the authority of G.S. 113A, Article 4, 15A NCAC 04B .0118 is incorporated by reference, including subsequent amendment.
- (3) ESC Plans submitted for a site that is currently subject to a Notice of Violation issued pursuant to the authority of G.S. 113A, Article 4.
- (4) ESC Plans impacting buffer zones adjacent to Trout Waters, as defined in 15A NCAC 02B .0202(58), unless a Trout Buffer Waiver has been obtained in advance in accordance with 15A NCAC 04B .0125(c) and G.S. 113A-57(1), 15A NCAC 04B .0125 is incorporated by reference, including subsequent amendments.
- (5) ESC Plans with a limit of disturbance greater than 20 acres, except where the Department provides prior approval.
- (6) ESC Plans that propose a site or grading plan that does not comply with G.S. 143-214.7, 15A NCAC 02H .1000, G.S. 113A, Article 7, Part 4, 15A NCAC 07, or G.S. 74-49(7)(f).
- (7) ESC Plans that do not include all submission requirements from Rule .0302 of this Section.

*History Note:* Authority G.S. 143B-279.13; S.L. 2023-134, s. 12.13.(b);  
Eff. July 1, 2025.

### **15A NCAC 01X .0302 APPLICATION SUBMISSION REQUIREMENTS**

Applications for ESC Plan reviews shall include:

- (1) All items listed in the Erosion and Sedimentation Control Plan Preliminary Review Checklist found at <https://www.deq.nc.gov/ESCforms> summarizing compliance with G.S. 113A, Article 4 and 15A NCAC 04, 15A NCAC 04 is incorporated by reference, including subsequent amendments;
- (2) The authorized statement of financial responsibility and documentation of property ownership, pursuant to 15A NCAC 04B .0118(c);
- (3) A detailed construction sequence for all erosion and sedimentation controls on all permits, plans or certifications necessary for the project;
- (4) Applicable landowner-builder agreements as described in 15A NCAC 04B .0118 and G.S. 113A-54.1(a); and
- (5) If the project is for a single-source borrow pit, all items necessary to meet the requirements of G.S. 74-49(7)(f).

*History Note:* Authority G.S. 113A-54.1; 113A-57; 143B-279.13; S.L. 2023-134, s. 12.13.(b);  
Eff. July 1, 2025.

### **15A NCAC 01X .0303 REVIEW OF APPLICATIONS**

The review of an ESC Plan Application shall proceed as follows:

- (1) Upon granting a Request for Express Review pursuant to Rule .0106(5) of this Subchapter, the Department shall review the ESC Plan within five business days of the Acceptance Date and shall make a determination to:
  - (a) Request additional information, clarification or revision;
  - (b) Approve the ESC Plan;
  - (c) Approve the ESC Plan with modification;
  - (d) Disapprove the ESC Plan;
  - (e) Transfer the ESC Plan to the standard ESC Plan review process; or
- (2) When a request for additional information, clarification or revision is made by the Department, the applicant shall respond with the requested information, clarifications or revisions within five business days from receipt of the request, beginning the first business day after the request is received.
- (3) Upon receipt of the information in Item (2) of this Rule, the Department shall review the ESC Plan and additional information within five business days, starting with the first business day after receipt and shall make a determination in accordance with Item (1) of this Rule.
- (4) No more than one request for additional information, clarification or revision shall be made under Sub-Item (1)(a) of this Rule. If additional information, clarification or revision is required after one request, or if the Department determines, after granting the Request for Express Review, that the project is ineligible for express review, the ESC Plan shall either be disapproved or transferred to the standard ESC Plan review process. If transferred, the date of receipt of the Application for purposes of G.S. 113A-54.1 or G.S. 113A-57 shall be the date upon which the transfer occurs.

*History Note:* Authority G.S. 113A-54.1; 113A-57; 143B-279.13; S.L. 2023-134, s. 12.13.(b);  
Eff. July 1, 2025.