

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Department of Environmental Quality

RULE CITATION: 15A NCAC 01X .0101

DEADLINE FOR RECEIPT: June 12, 2025

PLEASE NOTE: This request may extend to several pages. Please be sure you have reached the end of the document.

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

On line 10, please insert an Oxford comma after "plans."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis Wiggs
Commission Counsel
Submitted to the agency: May 28, 2025

1 15A NCAC 01X .0101 is adopted as published in 39:17 NCR 1109-1114 as follows:

2
3 **SUBCHAPTER 01X – EXPRESS PERMITTING**

4
5 **SECTION .0100 – EXPRESS PERMITTING**

6
7 **15A NCAC 01X .0101 PURPOSE**

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

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Department of Environmental Quality

RULE CITATION: 15A NCAC 01X .0102

DEADLINE FOR RECEIPT: June 12, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (2), line 9, is “may” or “shall” intended?

On lines 9-10, consider replacing “in the form of either” with “by submitting.”

In (5), line 14, add “(ESC)” after “Control.”

In (6), line 16, spell out “PCSW” the first time it’s used in this Rule and others.

In (8), line 21, considering deleting the comma after “Consultant” and add “of” before “all.”

On line 23, add a comma after “denied.”

On line 27, add a comma after “eligibility.”

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis Wiggs
Commission Counsel
Submitted to the agency: May 28, 2025

1 15A NCAC 01X .0102 is adopted as published in 39:17 NCR 1109-1114 as follows:

2
3 **15A NCAC 01X .0102 DEFINITIONS**

4 For purposes of this Subchapter,

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

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Department of Environmental Quality

RULE CITATION: 15A NCAC 01X .0103

DEADLINE FOR RECEIPT: June 12, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

On line 5, please insert an Oxford comma after "plans."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis Wiggs
Commission Counsel
Submitted to the agency: May 28, 2025

1 15A NCAC 01X .0103 is adopted as published in 39:17 NCR 1109-1114 as follows:

2
3 **15A NCAC 01X .0103 APPLICABILITY**

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

6 (1) Coastal Post-Construction Stormwater Permits pursuant to G.S. 143, Article 21, Part 1; and

7 (2) Erosion and Sedimentation Control Plans pursuant to G.S. 113A, Article 4.

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Department of Environmental Quality

RULE CITATION: 15A NCAC 01X .0104

DEADLINE FOR RECEIPT: June 12, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

On line 9, please insert an Oxford comma after "impacts." Also, add the same after "certifications" on lines 18-19.

In (5), line 11, "Vicinity map identifying the project area, GPS coordinates, and any nearby surface waters" can't be incorporated by reference under 150B-21.6. The specific surface waters identified in the cited rules may be incorporated by reference but please insert where the rules can be found and at what cost.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis Wiggs
Commission Counsel
Submitted to the agency: May 28, 2025

1 15A NCAC 01X .0104 is adopted as published in 39:17 NCR 1109-1114 as follows:

2
3 **15A NCAC 01X .0104 REQUESTS FOR EXPRESS REVIEW**

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

6 (1) Applicant name and contact information;

7 (2) Experienced Consultant name and contact information;

8 (3) Project name, location, and receiving waters;

9 (4) Narrative description of the project, including its various features, impacts and proximity to surface waters
10 identified in Item (5) of this Rule;

11 (5) Vicinity map identifying the project area, GPS coordinates, and any nearby surface waters including Class
12 SA waters as identified in 15A NCAC 02B .0221, Outstanding Resource Waters as identified in 15A
13 NCAC 02B .0225, High Quality Waters, as identified in 15A NCAC 02B .0224, or Trout Waters, as
14 defined in 15A NCAC 02B .0202(58), 15A NCAC 02B .0221, 15A NCAC 02B .0224 and 15A NCAC 02B
15 .0202 are incorporated by reference, including subsequent amendments;

16 (6) Site plan identifying the boundaries of all surface waters, wetlands, regulatory flood zones, protected
17 vegetated setbacks, and protected riparian buffers;

18 (7) A list of all existing State or Federal permits, plans, certifications or approvals related to the project; and

19 (8) A list of all other State or Federal permits, plans, certifications or approvals necessary to conduct the
20 project and their current status.

21 *History Note: Authority S.L. 2023-134, s. 12.13.(b); G.S. 143B-279.13; G.S. 143-214.7; G.S. 113A-54.1; G.S.*
22 *113A-57;*
23 *Eff. July 1, 2025.*

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Department of Environmental Quality

RULE CITATION: 15A NCAC 01X .0105

DEADLINE FOR RECEIPT: June 12, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

On line 6, is it necessary to include "it determines?" It appears that the Request for Express Review is either complete, in accordance with the cited Rules, or it's incomplete.

In (1)-(2), lines 8-9, consider adding "at the Department" at end of each.

In (4), line 11, what are some examples of "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...?" Please make this clear for the regulated public.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis Wiggs
Commission Counsel
Submitted to the agency: May 28, 2025

1 15A NCAC 01X .0105 is adopted as published in 39:17 NCR 1109-1114 as follows:

2
3 **15A NCAC 01X .0105 GRANTING REQUESTS FOR EXPRESS REVIEW**

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

8 (1) staffing vacancies or absences;

9 (2) existing workloads;

10 (3) emergencies; or

11 (4) other factors that would conflict with the purposes or requirements of G.S. 143B-279.13 or would prevent
12 an Application from being reviewed prior to the deadlines established in Rules .0203 and .0303 of this
13 Subchapter.

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Department of Environmental Quality

RULE CITATION: 15A NCAC 01X .0106

DEADLINE FOR RECEIPT: June 12, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

In (1), line 6, is "AccessDEQ" an application to download? Please specify how the Request and intake fee shall be submitted.

On line 7, replace "Section" with "Subchapter."

On line 8, the Department shall provide "notice" of what to the applicant?

On line 12, add a comma after "Subchapter."

On line 15, add a comma after "eligibility."

On line 18, add a comma after "applicant" and, on line 19, add a comma after "materials."

On line 20, spell out "PCSW" the first time it's used in a rule.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis Wiggs
Commission Counsel
Submitted to the agency: May 28, 2025

1 15A NCAC 01X .0106 is adopted as published in 39:17 NCR 1109-1114 as follows:

2
3 **15A NCAC 01X .0106 PROCESSING OF REQUESTS FOR EXPRESS REVIEW**

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

- 5 (1) To be considered for express review under these Rules, an applicant shall submit a Request for Express
6 Review and intake fee via AccessDEQ, including the information required pursuant to Rules .0104, .0202,
7 and .0302 of this Section. Current fees may be found at [https://www.deq.nc.gov/accessdeq/express-](https://www.deq.nc.gov/accessdeq/express-permitting)
8 permitting or in AccessDEQ. The Department shall provide the applicant with notice once the necessary
9 fees have been received. Fees are nonrefundable.
- 10 (2) Upon receipt of a Request for Express Review and intake fee, the Department shall perform an
11 administrative review to make an initial determination of applicability pursuant to Rule .0103 of this
12 Section, eligibility pursuant to Rules .0201 and .0301 of this Subchapter and availability pursuant to Rule
13 .0105 of this Section. The Department is under no obligation to perform any form of technical review of the
14 materials submitted prior to the Pre-Application Review Meeting.
- 15 (3) Once an initial determination of applicability, eligibility and availability is made by the Department, notice
16 shall be provided to the applicant and a Pre-Application Review Meeting shall be scheduled with the
17 applicant and their Experienced Consultant.
- 18 (4) During the Pre-Application Review Meeting, the Department, applicant or applicant's Experienced
19 Consultant shall discuss the project, jointly review the submitted application materials and advise regarding
20 any initially identified deficiency issues. If the Request for Express Review involves a PCSW Permit, both
21 the applicant and applicant's Experienced Consultant shall be required to attend the Pre-Application
22 Review Meeting. If, during the Pre-Application Review Meeting, it is determined that the project is
23 ineligible for express review or the Application is incomplete, the Request for Express Review may be
24 denied. If required information is identified as missing during the Pre-Application Review Meeting, an
25 extension may be granted for up to three business days to submit the required information, after which time
26 a determination regarding the Request for Express Review shall be made. If these identified items are not
27 submitted by the extension deadline, the Request for Express Review shall be considered incomplete and
28 shall be denied.
- 29 (5) If the Request for Express Review is granted, the next available Acceptance Date shall be assigned to the
30 Application and the application review shall proceed in accordance with Rule .0203 or .0303 of this
31 Subchapter.
- 32 (6) Once an Acceptance Date is assigned to the Application, the applicant shall submit the necessary fees via
33 AccessDEQ or by check submitted to the to the regional office with jurisdiction over the project location.
34 Current fees may be found at <https://www.deq.nc.gov/accessdeq/express-permitting> or in AccessDEQ. The
35 Department shall provide the applicant with notice once the necessary fees have been received. Fees are
36 nonrefundable.

1 (7) If the necessary fees have not been received by the Department via AccessDEQ or by check submitted to
2 the to the regional office with jurisdiction over the project location one business day prior to the
3 Acceptance Date, the Acceptance Date shall be cancelled.

4 (8) If the Department determines, after granting the Request for Express Review, that the project is ineligible
5 for express review, the Department shall conclude the Express Review in accordance with Rules .0203(4)
6 or .0303(4) of this Subchapter.

7 (9) Receipt of an Application as part of a Request for Express Review shall not constitute receipt or submission
8 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).

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Department of Environmental Quality

RULE CITATION: 15A NCAC 01X .0201

DEADLINE FOR RECEIPT: June 12, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

On line 6, spell out "PCSW" the first time it's used in a rule.

On line 8, add "as defined in 15A NCAC 01X .0102(6)," after "Experienced Consultant."

In (8), (9), (11), and (12), why is it necessary to incorporate by reference each of the cited rules?

In (11), line 31, add a comma after "(ii)."

In (12), lines 33-34, add a comma after "unconventional", delete "or", and add a comma after "irregular."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis Wiggs
Commission Counsel
Submitted to the agency: May 28, 2025

1 15A NCAC 01X .0201 is adopted as published in 39:17 NCR 1109-1114 as follows:

2
3 **SECTION .0200 – COASTAL POST-CONSTRUCTION STORMWATER PERMITS**

4
5 **15A NCAC 01X .0201 PROJECT ELIGIBILITY**

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

- 7 (1) PCSW Permit Applications submitted by an individual who does not meet the requirements of being
8 an Experienced Consultant familiar with coastal soil performance and stormwater control design
9 standards and specifications in North Carolina.
- 10 (2) Transfers.
- 11 (3) Renewals.
- 12 (4) Applications for high density projects that propose or modify four or more primary stormwater control
13 measures, as defined in 15A NCAC 02H .1002(37), 15A NCAC 02H .1002 is incorporated by
14 reference, including subsequent amendments.
- 15 (5) Applications for projects that will impact another PCSW Permit, unless Applications for both projects
16 are submitted jointly.
- 17 (6) Applications for projects that will overlap with another PCSW Permit, unless Applications for both
18 projects are submitted jointly.
- 19 (7) Applications for projects whose construction or permitting would cause another PCSW Permit to
20 become out of compliance, unless Applications for both projects are submitted jointly.
- 21 (8) Applications for projects that would require a variation pursuant to 15A NCAC 02H .1003(6) or would
22 modify a project subject to a variation previously granted, 15A NCAC 02H .1003 is incorporated by
23 reference, including subsequent amendments.
- 24 (9) Applications for projects that would require a Director's Certification pursuant to 15A NCAC 02H
25 .1040(7) or would modify a project subject to a Director's Certification previously granted, 15A
26 NCAC 02H .1040 is incorporated by reference, including subsequent amendments.
- 27 (10) Applications for projects that are out of compliance at the time of submission or review, unless
28 approval of the Application would bring the project into compliance. This provision does not allow
29 applicants to apply for renewal of expired PCSW Permits as part of a Request for Express Review.
- 30 (11) Applications that have been previously returned pursuant to Rule .0203(4) of this Section or 15A
31 NCAC 02H .1042(3)(a)(ii) or denied pursuant to 15A NCAC 02H .1040(5), 15A NCAC 02H .1042 is
32 incorporated by reference, including subsequent amendments.
- 33 (12) Applications for projects that the Department determines to be too complex, unconventional or
34 irregular or that utilize New Stormwater Technologies approved pursuant to 15A NCAC 02H
35 .1050(15) that have been approved by the Department for less than five years, 15A NCAC 02H .1050
36 is incorporated by reference, including subsequent amendments.

1 (13) Applications for projects that do not provide all submission requirements from Rule .0202 of this
2 Section.

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Department of Environmental Quality

RULE CITATION: 15A NCAC 01X .0202

DEADLINE FOR RECEIPT: June 12, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

On line 5, spell out "PCSW" the first time it's used in a rule.

On lines 10-11, why is it necessary to incorporate by reference the cited Rule?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis Wiggs
Commission Counsel
Submitted to the agency: May 28, 2025

1 15A NCAC 01X .0202 is adopted as published in 39:17 NCR 1109-1114 as follows:

2
3 **15A NCAC 01X .0202 APPLICATION SUBMISSION REQUIREMENTS**

4 Applications shall include:

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

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Department of Environmental Quality

RULE CITATION: 15A NCAC 01X .0203

DEADLINE FOR RECEIPT: June 12, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

On line 4, spell out "PCSW" the first time it's used in a rule.

On line 20, add a comma after "clarification."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis Wiggs
Commission Counsel
Submitted to the agency: May 28, 2025

1 15A NCAC 01X .0203 is adopted as published in 39:17 NCR 1109-1114 as follows:

2
3 **15A NCAC 01X .0203 REVIEW OF APPLICATIONS**

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

5 (1) Upon granting a Request for Express Review pursuant to Rule .0106(5) of this Subchapter, the Department
6 shall review the Application within ten business days of the Acceptance Date and shall make a
7 determination to:

8 (A) Issue or deny the PCSW Permit pursuant to 15A NCAC 02H .1040;

9 (B) Request additional information pursuant to 15A NCAC 02H .1042(3)(a)(i); or

10 (C) Extend the review deadline upon agreement by both the Department and the applicant.

11 (2) When a request for additional information is made by the Department, the applicant shall respond with the
12 requested information within five business days from receipt of the request, beginning the first business day
13 after the request is received. A single, five business day extension may be granted by the Department upon
14 receipt of a justification for the request for extension prior to the expiration of the initial five business day
15 response period.

16 (3) Upon receipt of the information in Item (2) of this Rule, the Department shall review the Application and
17 additional information within five business days, starting with the first business day after receipt and shall
18 make a determination in accordance with Item (1) of this Rule.

19 (4) No more than two requests for additional information shall be made under this Rule. If additional
20 information, clarification or revision is required after two requests, or if the Department determines, after
21 granting the Request for Express Review, that the project is ineligible for express review, the Application
22 shall be returned in accordance with the procedures set forth in 15A NCAC 02H .1042(3)(a)(ii) and the
23 applicant shall be required to resubmit the Application to the standard permit review process with a new
24 application fee.

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Department of Environmental Quality

RULE CITATION: 15A NCAC 01X .0301

DEADLINE FOR RECEIPT: June 12, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

On line 6, add "(ESC)" after "Control."

On line 8, add ",as defined in 15A NCAC 01X .0102(6)," after "Experienced Consultant." Also, consider adding "who is" before "familiar."

In (2) and (4), why is it necessary to incorporate by reference each of the cited rules?

In (5), line 19, is "limit of disturbance" defined in the NCAC or elsewhere? Or is it generally understood in the industry?

In (5), in what circumstances would the Department provide "prior approval"? What factors are used to determine if prior approval is granted?

In (6), lines 21-22, replace "15A NCAC 02H .1000" with "the rules of Section .1000 of Subchapter 02H."

On line 22, "15A NCAC 07" does not appear to exist in the NCAC. Please clarify.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis Wiggs
Commission Counsel
Submitted to the agency: May 28, 2025

1 15A NCAC 01X .0301 is adopted as published in 39:17 NCR 1109-1114 as follows:

2
3 **SECTION .0300 – EROSION AND SEDIMENTATION CONTROL PLANS**
4

5 **15A NCAC 01X .0301 PROJECT ELIGIBILITY**

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

- 7 (1) ESC Plans submitted by an individual who does not meet the requirements of being an Experienced
8 Consultant familiar with soil performance and erosion control design standards and specifications in North
9 Carolina.
- 10 (2) ESC Plans submitted where the financially responsible party, pursuant to 15A NCAC 04B .0118(c), is
11 currently subject to a Notice of Violation issued pursuant to the authority of G.S. 113A, Article 4, 15A
12 NCAC 04B .0118 is incorporated by reference, including subsequent amendment.
- 13 (3) ESC Plans submitted for a site that is currently subject to a Notice of Violation issued pursuant to the
14 authority of G.S. 113A, Article 4.
- 15 (4) ESC Plans impacting buffer zones adjacent to Trout Waters, as defined in 15A NCAC 02B .0202(58),
16 unless a Trout Buffer Waiver has been obtained in advance in accordance with 15A NCAC 04B .0125(c)
17 and G.S. 113A-57(1), 15A NCAC 04B .0125 is incorporated by reference, including subsequent
18 amendments.
- 19 (5) ESC Plans with a limit of disturbance greater than 20 acres, except where the Department provides prior
20 approval.
- 21 (6) ESC Plans that propose a site or grading plan that does not comply with G.S. 143-214.7, 15A NCAC 02H
22 .1000, G.S. 113A, Article 7, Part 4, 15A NCAC 07, or G.S. 74-49(7)(f).
- 23 (7) ESC Plans that do not include all submission requirements from Rule .0302 of this Section.

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Department of Environmental Quality

RULE CITATION: 15A NCAC 01X .0302

DEADLINE FOR RECEIPT: June 12, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

On line 7, why is it necessary to incorporate by reference the cited Rule?

In (5), line 14, is "single-source borrow pit" generally understood in the industry?

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis Wiggs
Commission Counsel
Submitted to the agency: May 28, 2025

1 15A NCAC 01X .0302 is adopted as published in 39:17 NCR 1109-1114 as follows:

2
3 **15A NCAC 01X .0302 APPLICATION SUBMISSION REQUIREMENTS**

4 Applications for ESC Plan reviews shall include:

- 5 (1) All items listed in the Erosion and Sedimentation Control Plan Preliminary Review Checklist found at
6 <https://www.deq.nc.gov/ESCforms> summarizing compliance with G.S. 113A, Article 4 and 15A NCAC 04,
7 15A NCAC 04 is incorporated by reference, including subsequent amendments;
8 (2) The authorized statement of financial responsibility and documentation of property ownership, pursuant to
9 15A NCAC 04B .0118(c);
10 (3) A detailed construction sequence for all erosion and sedimentation controls on all permits, plans or
11 certifications necessary for the project;
12 (4) Applicable landowner-builder agreements as described in 15A NCAC 04B .0118 and G.S. 113A-54.1(a);
13 and
14 (5) If the project is for a single-source borrow pit, all items necessary to meet the requirements of G.S. 74-
15 49(7)(f).

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

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: North Carolina Department of Environmental Quality

RULE CITATION: 15A NCAC 01X .0303

DEADLINE FOR RECEIPT: June 12, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

On line 4, spell out "ESC" the first time it's used in a rule and add "(ESC)."

On lines 13, 14, 19, and 20, add a comma after "clarification(s)."

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Travis Wiggs
Commission Counsel
Submitted to the agency: May 28, 2025

1 15A NCAC 01X .0303 is adopted as published in 39:17 NCR 1109-1114 as follows:

2
3 **15A NCAC 01X .0303 REVIEW OF APPLICATIONS**

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

- 5 (1) Upon granting a Request for Express Review pursuant to Rule .0106(5) of this Subchapter, the Department
6 shall review the ESC Plan within five business days of the Acceptance Date and shall make a determination
7 to:
8 (A) Request additional information, clarification or revision;
9 (B) Approve the ESC Plan;
10 (C) Approve the ESC Plan with modification;
11 (D) Disapprove the ESC Plan;
12 (E) Transfer the ESC Plan to the standard ESC Plan review process; or
13 (2) When a request for additional information, clarification or revision is made by the Department, the
14 applicant shall respond with the requested information, clarifications or revisions within five business days
15 from receipt of the request, beginning the first business day after the request is received.
16 (3) Upon receipt of the information in Item (2) of this Rule, the Department shall review the ESC Plan and
17 additional information within five business days, starting with the first business day after receipt and shall
18 make a determination in accordance with Item (1) of this Rule.
19 (4) No more than one request for additional information, clarification or revision shall be made under Sub-Item
20 (1)(A) of this Rule. If additional information, clarification or revision is required after one request, or if the
21 Department determines, after granting the Request for Express Review, that the project is ineligible for
22 express review, the ESC Plan shall either be disapproved or transferred to the standard ESC Plan review
23 process. If transferred, the date of receipt of the Application for purposes of G.S. 113A-54.1 or G.S. 113A-
24 57 shall be the date upon which the transfer occurs.

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