

REQUEST FOR TECHNICAL CHANGE

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02H .1002

DEADLINE FOR RECEIPT: Wednesday, December 10, 2014

NOTE WELL: This request when viewed on computer extends 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 call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

Line 15; page 2, lines 1, 6, and 13, replace "mean" with "means"

Line 24, replace "which" with "that"

Line 24, add "the" between "meets low"

Page 2, line 29, the term being defined does not appear to be a statutory term. It appears that the correct term is "erosion and sedimentation control plan" Please clarify

Page 2, line 33, add a comma after "curb"

Page 2, line 35, add a comma after "armoring"

Page 3, lines 4 and 19, replace "which" with "that"

Page 3, add a comma after "lots"

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

Abigail M. Hammond
Commission Counsel

Date submitted to agency: Wednesday, November 26, 2014

1 15A NCAC 2H .1002 is amended with changes as published in 29:03 NCR 234-252 as follows:

2
3 **15A NCAC 02H .1002 DEFINITIONS**

4 The definition of any word or phrase in this Section shall be the same as given in Article 21, Chapter 143 of the
5 General Statutes of North Carolina, as amended. Other words and phrases used in this Section are defined as
6 follows:

- 7 (1) "Built-upon Area" means ~~that portion of a development project that is covered by~~ impervious
8 surface or and partially impervious surface ~~including, but not limited to, buildings; pavement to~~
9 the extent that the partially impervious surface does not allow water to infiltrate through the
10 surface and ~~gravel areas such as roads, parking lots, and paths; and recreation facilities such as~~
11 ~~tennis courts into the subsoil.~~ "Built-upon" "Built-upon area" does not include a ~~wooden~~
12 ~~deck, deck or~~ the water area of a swimming pool, ~~or pervious or partially pervious paving material~~
13 ~~to the extent that the paving material absorbs water or allows water to infiltrate through the paving~~
14 ~~material.~~ pool.
- 15 (2) "CAMA Major Development Permits" mean those permits or revised permits required by the
16 Coastal Resources Commission ~~according to~~ as set forth in 15A NCAC ~~7J-07J~~ Sections .0100 and
17 .0200.
- 18 (3) "Certificate of Stormwater Compliance" means the approval for activities that meet the
19 requirements for coverage under a stormwater general permit for development activities that are
20 regulated by this Section.
- 21 (4) "Coastal Counties" ~~include~~ are Beaufort, Bertie, Brunswick, Camden, Carteret, Chowan, Craven,
22 Currituck, Dare, Gates, Hertford, Hyde, New Hanover, Onslow, Pamlico, Pasquotank, Pender,
23 Perquimans, Tyrrell, and Washington.
- 24 (5) "Curb Outlet System" means curb and gutter installed in a development which meets low density
25 criteria ~~[Rule set forth in Rule .1003(d)(1) of this Section]~~ Section with breaks in the curb or other
26 outlets used to convey stormwater runoff to grassed swales or vegetated or natural areas and
27 designed in accordance with Rule .1008(g) of this Section.
- 28 (6) "Development" means any land disturbing activity that increases the amount of built-upon area or
29 that otherwise decreases the infiltration of precipitation into the soil.
- 30 (7) "Drainage Area or Watershed" means the entire area contributing surface runoff to a single point.
- 31 (8) "Forebay" means a device located at the head of a wet detention pond to capture incoming
32 sediment before it reaches the main portion of the pond. The forebay is typically an excavated
33 settling basin or a section separated by a low weir.
- 34 (9) "General Permit" means a ~~permit~~ permit issued under G.S. 143-215.1(b)(3) and (4) authorizing a
35 category of similar activities or discharges.
- 36 ~~[(10) "Gravel" means a clean or washed, loose, uniformly graded aggregate of stones from a lower limit~~
37 ~~of 0.08 inches to an upper limit of 3.0 inches in size.]~~

1 ~~(41)~~(10) "Infiltration Systems" mean stormwater control systems designed to allow runoff to pass
2 or move (infiltrate/exfiltrate) into the soil.

3 ~~(42)~~(11) "Notice of Intent" means a written notification to the Division that an activity or
4 discharge is intended to be covered by a general permit and takes the place of the "application"
5 application used with individual permits.

6 ~~(43)~~(12) "Off-site Stormwater Systems" mean stormwater management systems that are located
7 outside the boundaries of the specific project in question, but designed to control stormwater
8 drainage from that project and other potential development sites. These systems shall designate
9 responsible parties for operation and maintenance and may be owned and operated as a duly
10 licensed utility or by a local government.

11 ~~(24)~~~~(14)~~~~(13)~~ "One-year, 24-hour storm" means a rainfall of an intensity expected to be equaled or
12 exceeded, on average, once in 12 months and with a duration of 24 hours.

13 ~~(13)~~~~(15)~~~~(14)~~ "On-site Stormwater Systems" mean the systems necessary to control stormwater within
14 an individual development project and located within the project boundaries.

15 ~~(26)~~~~(16)~~~~(15)~~ "Permeable pavement" means paving material that absorbs water or allows water to
16 infiltrate through the paving material. Permeable pavement materials include porous concrete,
17 permeable interlocking concrete pavers, concrete grid pavers, porous asphalt, and any other
18 material with similar characteristics. ~~Compacted gravel shall not be considered permeable~~
19 ~~pavement.~~

20 ~~(14)~~~~(17)~~~~(16)~~ "Redevelopment" means any land disturbing activity that does not result in a net increase
21 in built-upon area and that provides greater or equal stormwater control than the previous
22 ~~development~~ development. ~~(stormwater Stormwater controls shall not be allowed where otherwise~~
23 ~~prohibited).~~ prohibited.

24 ~~(27)~~~~(18)~~~~(17)~~ "Residential development activities" has the same meaning as in 15A NCAC 02B
25 .0202(54).

26 ~~(15)~~~~(19)~~~~(18)~~ "Seasonal High Water Table" means the highest level that groundwater, at atmospheric
27 pressure, reaches in the soil in most years. The seasonal high water table is usually detected by the
28 mottling of the soil that results from mineral leaching.

29 ~~(16)~~~~(20)~~~~(19)~~ "Sedimentation/Erosion Control Plan" means any plan, amended plan or revision to an
30 approved plan submitted to the Division of Energy, Mineral, and Land Resources or delegated
31 authority in accordance with G.S. 113A-57.

32 ~~(17)~~~~(21)~~~~(20)~~ "Stormwater" is defined in G.S. ~~143, Article 21.143-213~~143-213(16a).

33 ~~(18)~~~~(22)~~~~(21)~~ "Stormwater Collection System" means any conduit, pipe, channel, curb or gutter for the
34 primary purpose of transporting (not treating) runoff. A stormwater collection system does not
35 include vegetated swales, swales stabilized with armoring or alternative methods where natural
36 topography or other physical constraints prevents the use of vegetated swales (subject to case-by-
37 case review), curb outlet systems, or pipes used to carry drainage underneath built-upon surfaces

1 that are associated with development controlled by the provisions of Rule .1003(d)(1) in this
2 Section.

3 ~~(19)~~~~(23)~~~~(22)~~ "10 Year Storm" means the surface runoff resulting from a rainfall of an intensity
4 expected to be equaled or exceeded, on the average, once in 10 years, and of a duration which will
5 produce the maximum peak rate of runoff, for the watershed of interest under average antecedent
6 wetness conditions.

7 ~~(22)~~~~(24)~~~~(23)~~ "Vegetative Buffer" means an area of natural or established vegetation directly adjacent
8 to surface waters through which stormwater runoff flows in a diffuse manner to protect surface
9 waters from degradation due to development activities. The width of the buffer is measured
10 horizontally from the normal pool elevation of impounded structures, from the bank of each side
11 of streams or rivers, and from the mean high water line of tidal waters, perpendicular to the
12 shoreline.

13 ~~(25)~~ — "BMP" means ~~Best Management Practice.~~

14 ~~(28)~~~~(25)~~~~(24)~~ "Vegetative conveyance" means a permanent, designed waterway lined with vegetation
15 that is used to convey stormwater runoff at a non-erosive velocity within or away from a
16 developed area.

17 ~~(23)~~~~(26)~~~~(25)~~ "Vegetative Filter" means an area of natural or planted vegetation through which
18 stormwater runoff flows in a diffuse manner so that runoff does not become channelized and
19 which provides for control of stormwater runoff through infiltration of runoff and filtering of
20 pollutants. The defined length of the filter shall be provided for in the direction of stormwater
21 flow.

22 ~~(20)~~~~(27)~~~~(26)~~ "Water Dependent Structures" means a structure for which the use requires access or
23 proximity to or siting within surface waters to fulfill its basic purpose, such as boat ramps, boat
24 houses, docks, and bulkheads. Ancillary facilities such as restaurants, outlets for boat supplies,
25 parking lots and boat storage areas are not water dependent uses.

26 ~~(21)~~~~(28)~~~~(27)~~ "Wet Detention Pond" means a structure that provides for the storage and control of
27 runoff and includes a designed and maintained permanent pool volume.

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29 *History Note: Authority G.S. 143-213; 143-214.1; 143-214.7; 143-215.3(a)(1);*
30 *Eff. January 1, 1988;*
31 *Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1(f)); July 3, 2012; December 1, 1995;*
32 *September 1, 1995;*
33 *Temporary Amendment Eff. March 28, 2014;*
34 *Amended Eff. January 1, 2015.*