

1 **15A NCAC 02H .1030, PUBLISHED IN IN 28:23 NCR 2814-2820, HAS BEEN ADOPTED WITH**
2 **CHANGES AS FOLLOWS:**

3
4 **15A NCAC 02H .1030 STORMWATER REQUIREMENTS: OIL AND GAS EXPLORATION AND**
5 **PRODUCTION**

6 (a) Regulated Development Activity. Persons engaged in oil and gas exploration, development, and production
7 activities shall manage stormwater runoff in accordance with the provisions of this Rule.

8 (1) These ~~Such~~ persons shall submit a permit application to the Division of Energy, Mineral, and
9 Land Resources (Division) in accordance with the requirements of this Section.

10 (2) These ~~Such~~ persons shall obtain a permit from the Division prior to any on-site activities other
11 than land surveying, and surface soil testing of hydraulic conductivity and engineering properties.

12 (3) This Rule authorizes the Division to issue a stormwater-only permit. ~~The Division shall not~~
13 ~~authorize by permit the discharge to surface waters of stormwater commingled with any other~~
14 ~~fluid.~~ Any other discharge to surface waters is prohibited unless permitted in accordance with G.S.
15 143-215.1.

16 (4) The Division may issue stormwater permits as discrete, stand-alone stormwater permits or may
17 incorporate stormwater permit conditions into an environmental protection permit encompassing
18 multiple regulatory programs.

19 (b) Permit Application Requirements.

20 (1) Notwithstanding the qualifying provisions of Rule .1003(b)(1), (2), and (3) of this Section, a
21 complete permit application and a permit are required for oil and gas exploration, development,
22 and production ~~activity.~~ activity. ~~activity.~~ regardless of whether the activity also requires a CAMA major
23 development permit or an Erosion and Sedimentation Control ~~Plan;~~ Plan. A permit application and
24 permit are also required ~~and~~ regardless of whether the development is located in the 20 coastal
25 counties, ~~or~~ drains to Outstanding Resource Waters (ORW), or drains to High Quality Waters
26 (HQW).

27 (2) The Division shall treat each stormwater permit application for oil and gas exploration,
28 development, and production activities as a High Density Project application as provided for in
29 Rule ~~.1003(d)(2);~~ 1003(d)(2) of this Section, and shall only grant permit coverage if the
30 application itself and the proposed development meet the requirements of this Rule.

31 ~~(3) The Director may solicit and receive comments from other regulatory agencies and the public~~
32 ~~when necessary to obtain additional information needed to complete the review of either the~~
33 ~~stormwater permit application or the stormwater conditions in an application for an environmental~~
34 ~~protection permit encompassing multiple regulatory programs.~~ If comments are solicited, notice
35 shall be posted on the Division's website with 30 days provided for public comment to be
36 submitted to the Director. The permit application shall be included in the notice published on the
37 Division's website.

1 ~~(3)~~(4) The permit application for oil and gas exploration, development, and production activities shall be
2 submitted to the Division at the Raleigh Central ~~Office~~ Office located at 512 North Salisbury
3 Street, Raleigh, North Carolina 27604.

4 ~~(4)~~(5) The stormwater permit application shall comply with the requirements in Rule .1003(g) of this
5 Section. In addition, the application shall include the following ~~information~~ information:

6 (A) all North Carolina classifications and supplemental classifications (if any) assigned to the
7 receiving water;

8 (B) the location of all stormwater discharge points, both by latitude and longitude coordinates
9 and by graphic ~~representation at a scale sufficient for the Division's~~
10 review; representation;

11 (C) the graphic representation of the location and delineation of wetlands and regulated
12 buffers on the site, adjacent to the site, or between the site and the receiving ~~water at a~~
13 scale sufficient for the Division's review; water;

14 (D) a statement that there are no threatened or endangered species identified for the receiving
15 water or for downstream receiving waters. ~~Alternatively, If threatened or endangered~~
16 species are present the application shall identify the threatened and endangered species
17 and their reported locations in the receiving water and downstream receiving
18 ~~waters~~; waters. The application shall propose specific measures for the protection of any
19 threatened or endangered species present in the receiving water. The Division shall
20 evaluate the proposed measures and may require additional or different measures in the
21 final form of the stormwater management permit;

22 (E) a design narrative that explains the assumptions and calculations for the engineering
23 design of the stormwater control systems proposed and that ~~individually~~ identifies how
24 the design complies with each specific requirement of this Section; and

25 (F) ~~Final Site Close Out Plan~~; thea graphic ~~representation, at a scale sufficient for the~~
26 Division's review; representation of the final site grade and site conditions that will be
27 implemented in support of a future request to rescind the stormwater ~~permit~~ permit, permit, or
28 comprehensive environmental permit, permit, based on the final close out and the end
29 of the permit holder's commercial interest in the site.

30 (6) As a part of the permit application, the applicant shall submit a Stormwater Management Plan that
31 identifies the physical and procedural stormwater management measures proposed to minimize
32 the discharge of pollutants [via] through stormwater. The Stormwater Management Plan shall
33 address all phases of site activity and operation. The Stormwater Management Plan shall include:

34 (A) a description of site activities with the potential to affect the pollutant content of
35 stormwater runoff;

36 (B) a description of the permittee's stormwater management strategy to control and minimize
37 stormwater exposure of significant materials;

- 1 (C) a description of the permittee's spill prevention and response procedures;
- 2 (D) a description of the permittee's preparations in anticipation of, and in response to, rainfall
- 3 events in excess of the design basis of the physical stormwater control and treatment
- 4 measures employed;
- 5 (E) a description of good housekeeping measures and supporting facility inspections
- 6 including a schedule of inspections and maintenance on any structural control measures;
- 7 (F) a description of the permittee's training of site personnel in stormwater pollution
- 8 prevention; and
- 9 (G) the identification of the specific person or position responsible for the overall
- 10 coordination, development, implementation, and revision of the Stormwater Management
- 11 Plan.

12 (c) Stormwater Management Requirements.

- 13 (1) During initial site clearing, grading, excavation, and construction of earthen surface features,
- 14 including temporary erosion and sedimentation control measures and permanent stormwater
- 15 control measures, the permittee shall manage (control, operate, maintain, store, handle, clean up,
- 16 and dispose of) site conditions, materials, activities, and stormwater as ~~follows~~follows:
- 17 (A) Equipment, petroleum products, equipment wash waters, and associated spent fluids shall
- 18 be managed ~~(operated, maintained, stored, handled, cleaned up, and disposed of)~~ to
- 19 prevent the potential or actual pollution of surface waters by direct discharge or via
- 20 stormwater runoff.
- 21 (B) Herbicides, pesticides, fertilizers, and similar materials shall be managed to prevent
- 22 introduction into stormwater runoff, runoff, and in accordance with label restrictions and
- 23 the Federal Insecticide, Fungicide, and Rodenticide Act. ~~[Act, 7 U.S.C. 136 et seq.]~~
- 24 (C) Building material waste, land clearing and demolition debris, litter, and sanitary wastes
- 25 shall be managed to prevent introduction into stormwater runoff. Dedicated management
- 26 areas shall be established for these materials a minimum of 50 feet away from surface
- 27 waters and discrete stormwater conveyances.
- 28 (D) Topsoil and excavated material stockpiles shall be located a minimum of 50 feet away
- 29 from surface waters and stormwater conveyances and shall be managed to prevent runoff
- 30 transport of the stockpiled materials to ~~the surface waters of North Carolina~~ waters.
- 31 (E) Excess concrete, concrete wash water, and cement slurries shall be managed to prevent
- 32 the potential or actual pollution of surface waters by direct discharge or via stormwater
- 33 runoff.
- 34 (2) During initial site clearing, grading, excavation, and construction of earthen surface features,
- 35 including temporary erosion and sedimentation control measures and permanent stormwater
- 36 control measures, the permittee shall manage site conditions, materials, activities, and stormwater
- 37 as ~~follows~~follows:

- 1 (A) All perimeter dikes, perimeter swales, perimeter ditches, perimeter slopes, all slopes
2 steeper than 3:1, and all slopes longer than 50 feet shall be provided with temporary or
3 permanent ground cover stabilization ~~as soon as practical, but in every case~~ within 7
4 calendar days from the last land disturbing activity.
- 5 (B) All other disturbed areas shall be provided temporary or permanent ground cover
6 stabilization ~~as soon as practical, but in every case~~ within 14 calendar days from the last
7 land disturbing activity.
- 8 (C) Time extensions may be requested in writing by the permittee. These requests may be
9 granted by the Division based on weather or site-specific conditions. The Division may
10 also deny requests for such extensions, and
- 11 (D) Treatment measure requirements; requirements.
- 12 (i) All sediment basins and traps with a contributing drainage area of ~~one~~ acre or
13 greater ~~must~~shall utilize outlet structures that withdraw water from the surface.
- 14 (ii) Stormwater treated with polymers, flocculants, or other treatment chemicals
15 ~~must~~shall be routed through sediment traps, filters, ~~and/or~~ other settling
16 devices to ensure removal prior to discharge to surface waters. Only chemicals
17 that have been approved by the Division may be used. The approved chemicals
18 list is available on the Division's website at
19 <http://portal.ncdenr.org/web/1r/construction-stormwater>.

- 20 (3) For this Rule, "spudding" means starting the oil or gas well drilling process by removing rock,
21 dirt, and other sedimentary material with the drill bit. After ~~During~~ initial site clearing, grading,
22 excavation, and construction of earthen surface features, including temporary erosion and
23 sedimentation control measures and permanent stormwater control measures, and at least 72 hours
24 prior to the full demobilization of the site preparation equipment and forces, and prior to any
25 mobilization to the site of any equipment or material intended to support subsurface
26 activities, spudding an oil or gas well, the permittee shall deliver to the Division written
27 certification by the individual designing the stormwater control system ~~identified in accordance~~
28 with Rule .1008(j) of this Section must certify in writing to the Division in accordance with Rule
29 .1008(j) of this Section. Regardless of whether a certificate of occupancy is provided or required
30 by other authority, no additional mobilization to the site shall take place the permittee shall not
31 proceed with spudding the well until the Division accepts the designer's written certification.
32 certification in writing. Within 72 hours of receiving the designer's [certificate] certificate, the The
33 Division shall inspect the permitted stormwater control system. Subsequent to the inspection, the
34 Division may withhold acceptance of the designer's certification pending a favorable site
35 inspection by the Regional Office. upon concluding that the stormwater control system has not
36 been installed in accordance with the stormwater permit and the approved stormwater permit
37 application documents. If the Division fails to inspect the stormwater control system within 72

1 hours of receiving the designer's certification, the certification shall be deemed accepted by the
2 Division and the permittee may proceed with spudding the well. ~~[For this Rule, 'spudding' the~~
3 ~~well means starting the oil or gas well drilling process by removing rock, dirt, and other~~
4 ~~sedimentary material with the drill bit.]~~

5 (4) After completion of the surface site preparation activity, and beginning with the surface activity in
6 direct support of well ~~drilling and continuing thereafter, drilling,~~ the permittee shall manage site
7 conditions, materials, activities, and stormwater as ~~follows, follows:~~

8 (A) Stormwater control measures shall control and treat the runoff from the ~~1" rainfall; or,~~
9 ~~stormwater control measures shall control and treat the difference in runoff for pre-~~
10 ~~development and post development conditions for the 90th percentile rainfall~~
11 ~~event.~~ rainfall event with a 24-hour precipitation total greater than or equal to 90 percent
12 of all 24-hour rainfall event totals on an annual basis.

13 (B) Stormwater control measures shall discharge at a rate less than or equal to the peak pre-
14 development discharge rate for the 1-year, 24-hour storm.

15 (C) Stormwater control measures shall be designed in accordance with the provisions of Rule
16 .1008 of this Section, ~~with options and guidance provided by the version of the Division's~~
17 ~~Stormwater Best Management Practices Manual current at the time of permit application~~
18 ~~or permit revision request.~~ Section.

19 (D) In addition to the measures identified in Rule .1008(a) of this Section, other measures
20 ~~appearing in the Division's Stormwater Best Management Practices Manual~~ shall be
21 approved where individually, or in combination, the measures achieve 85% average
22 annual removal of Total Suspended Solids, and upon the Division's review and
23 conclusion of appropriate design and suitability for the anticipated site conditions.

24 (E) All stormwater control measures shall be equipped with underflow baffles or other
25 effective means to prevent the discharge of hydrocarbons and floating pollutants.

26 (F) The requirements identified in Subparagraphs (1) and (2) of this Paragraph for initial site
27 construction shall also apply to all subsequent phases of site operation.

28 (5) ~~The Division shall establish record keeping, self inspection, and self reporting permit~~
29 ~~requirements to insure effective site management attention, response actions, and control of the~~
30 ~~potential for polluted stormwater.~~ All records required by this Rule shall be kept on site for the life
31 of the permit.

32 (6) The permittee shall report all bypasses, malfunctions, failures, and unpermitted discharges of the
33 stormwater control system to the Division's Regional Office within 24 hours of becoming aware
34 of the conditions.

35 (7) During the initial site clearing and grading phase of site operations, the permittee shall inspect all
36 erosion control measures weekly and after any storm event greater than 0.5" of rain per 24-hour
37 period; and shall keep written records of the inspections, observations, and response actions. The

1 Division's acceptance of the certification required in Subparagraph (3) of this Paragraph shall be
2 used to release the permittee from the inspections and record keeping required during the initial
3 site clearing and grading phase.

4 (8) Stormwater management requirements provided in this Paragraph pertain to the well pad area, all
5 adjacent developed areas, and access and haul roads in proximity to the well pad or directly
6 associated with the operation of the permitted site.

7 (d) Coordination with other water quality regulations.

8 (1) For oil and gas exploration, development, and production activities, compliance with this Rule
9 satisfies the requirements of Rule .1006 of this Section. However, pursuant to Rule .1006 of this
10 Section, the Division may require more stringent measures for development activities draining to
11 HQW waters as provided in Rule .1006 of this Section.

12 (2) For oil and gas exploration, development, and production activities, compliance with this Rule
13 satisfies the Freshwater ORW requirements of Rule .1007 of this Section. However, pursuant to
14 Rule .1007 of this Section, the Division may require more stringent measures for development
15 activities draining to ORW waters as provided in Rule .1007 of this Section.

16 (3) This Rule is not intended to modify, repeal, or supersede any other rule, regulation, or other
17 provision of law. The requirements of this Rule are in addition to the requirements of any other
18 rule, regulation, or other provision of law. Where any requirement of this Rule imposes
19 restrictions different from those imposed by any other rule, regulation, or other provision of law,
20 whichever requirement is more restrictive or imposes higher protective standards for human or
21 environmental health, safety, and welfare shall control. This includes, but is not limited to,
22 includes Sections 15A NCAC 02B .0100, 15A NCAC 02B .0200, and 15A NCAC 02B .0300,
23 whether administered by the State or by a local unit of government.

24
25 *History Note:* Authority G.S. 113-391(a3)(1); 143-214.1; 143-214.7; 143-215.1; 143-215.3(a); ~~113-~~
26 ~~391(a3)(1)~~[113-391(a3)(1)]; S.L. 2014-4 Section 2.(e);
27 Eff. January 1, 2015.

1 **15A NCAC 02T .0113 HAS BEEN AMENDED WITH CHANGES AS PUBLISHED IN 28:23 NCR 2814-2820 AS**
2 **FOLLOWS:**

3
4 **15A NCAC 02T .0113 PERMITTING BY REGULATION**

5 (a) The following disposal systems as well as those in Permitting By Regulation rules in this Subchapter (i.e., Rules
6 .0203, .0303, .0403, .1003, .1103, .1203, .1303, .1403, and .1503) are deemed to be permitted pursuant to G.S. 143-
7 215.1(b) and it shall not be necessary for the Division to issue individual permits or coverage under a general permit for
8 construction or operation of the following disposal systems provided the system does not result in any violations of
9 surface water or groundwater standards, there is no direct discharge to surface waters, and all criteria required for the
10 specific system is met:

- 11 (1) Swimming pool and spa filter backwash and drainage, filter backwash from aesthetic fountains, and
12 filter backwash from commercial or residential water features such as garden ponds or fish ~~ponds~~
13 ponds, that is discharged to the land surface;
- 14 (2) Backwash from raw water intake screening devices that is discharged to the land surface;
- 15 (3) Condensate from residential or commercial air conditioning units that is discharged to the land surface;
- 16 (4) Discharges to the land surface from individual non-commercial car washing operations;
- 17 (5) Discharges to the land surface from flushing and hydrostatic testing water associated with utility
18 distribution systems, new sewer extensions extensions, or new reclaimed water distribution lines;
- 19 (6) Street wash water that is discharged to the land surface;
- 20 (7) Discharges to the land surface from fire fighting activities;
- 21 (8) Discharges to the land surface associated with emergency removal and treatment activities for spilled
22 oil authorized by the federal or state on-scene coordinator when such removals are undertaken to
23 minimize overall environmental damage due to an oil spill;
- 24 (9) Discharges to the land surface associated with biological or chemical decontamination activities
25 performed as a result of an emergency declared by the Governor or the Director of the Division of
26 Emergency Management and that are conducted by or under the direct supervision of the federal or
27 state on-scene coordinator and that meet the following criteria:
 - 28 (A) the volume produced by the decontamination activity is too large to be contained onsite;
 - 29 (B) the Division is informed prior to commencement of the decontamination activity; and
 - 30 (C) the wastewater is not radiologically contaminated or classified as hazardous waste;
- 31 (10) Drilling muds, cuttings cuttings, and well water from the development of wells or from other
32 construction activities including directional ~~boring~~; boring, except such wastes generated in the
33 construction and development of oil and gas wells regulated by Article 27 of G.S. 113;
- 34 (11) Purge water from groundwater monitoring wells;
- 35 (12) Composting facilities for dead animals, if the construction and operation of the facilities is approved
36 by the North Carolina Department of Agriculture and Consumer Services; the facilities are constructed

1 on an impervious, weight-bearing foundation, operated under a roof; and the facilities are approved by
2 the State Veterinarian pursuant to G.S. 106-403;

3 (13) Overflow from elevated potable water storage facilities;

4 (14) Mobile carwashes if:

5 (A) all detergents used are biodegradable;

6 (B) no steam cleaning, engine **cleaning**, or parts cleaning is being conducted;

7 (C) notification is made prior to operation by the owner to the **municipality municipality**, or if not
8 in a **municipality municipality**, then the county where the cleaning service is being provided;
9 and

10 (D) all non-recyclable washwater is collected and discharged into a sanitary sewer or wastewater
11 treatment facility upon approval of the facility's owner;

12 (15) Mine tailings where no chemicals are used in the mining process;

13 (16) Mine dewatering where no chemicals are used in the mining process; and

14 (17) Wastewater created from the washing of produce, with no further processing on-site, on farms where
15 the wastewater is irrigated onto fields so as not to create runoff or cause a discharge.

16 (b) Nothing in this Rule shall be deemed to allow the violation of any assigned surface water, groundwater, or air quality
17 standards, and in addition any such violation shall be considered a violation of a condition of a permit. Further, nothing
18 in this Rule shall be deemed to apply to or permit disposal systems for which a state **NPDES National Pollutant**
19 **Discharge Elimination System** permit is otherwise required.

20 (c) Any violation of this Rule or discharge to surface waters from the disposal systems listed in Paragraph (a) of this
21 Rule or the activities listed in other Permitted By Regulation rules in this Subchapter shall be reported in accordance with
22 15A NCAC 02B .0506.

23 (d) Disposal systems deemed permitted under this Subchapter shall remain deemed permitted, notwithstanding any
24 violations of surface water or groundwater standards or violations of this Rule or other Permitted By Regulation rules in
25 this Subchapter, until such time as the Director determines that they **should shall** not be deemed permitted in accordance
26 with the criteria established in this Rule.

27 (e) The Director may determine that a disposal system should not be deemed to be permitted in accordance with this
28 Rule or other Permitted By Regulation rules in this Subchapter and require the disposal system to obtain an individual
29 permit or a certificate of coverage under a general permit. This determination shall be made based on existing or
30 projected environmental impacts, compliance with the provisions of this Rule or other Permitted By Regulation rules in
31 this Subchapter, and the compliance history of the facility owner.

32
33 *History Note:* Authority *G.S. 130A-300; ~~143-215.1(a)(1); 143-215.1(a); 143-215.1(b)(4)(e); 143-215.3(a),(d); 143-~~*
34 *~~215.3(a);~~*
35 *Eff. September 1, 2006;*
36 *Amended Eff. pending legislative review; June 18, 2011.*

1 **15A NCAC 02T .1001 HAS BEEN AMENDED WITH CHANGES AS PUBLISHED IN 28:23 NCR 2814-2820 AS**
2 **FOLLOWS:**

3
4 **15A NCAC 02T .1001 SCOPE**

5 This Section applies to closed-loop recycle systems in which nondomestic wastewater is repeatedly recycled back
6 through the process in which the waste was generated. The following systems are not regulated by this Section:

- 7 (1) the reuse or return of wastewater from a permitted animal waste lagoon facility for waste flushing
8 ~~cover~~ covered by Section .1300 of this Subchapter;
- 9 (2) the recycling of wastewater from groundwater remediation systems through an Injection Well or
10 Infiltration Gallery ~~specifically~~ covered by Section .1600 of this Subchapter; ~~and~~
- 11 (3) the reuse of wastewater through treatment and distribution as reclaimed water ~~specifically~~ covered by
12 Section .0900 of this ~~Subchapter~~. Subchapter; and
- 13 (4) the recycling of wastewater or well drilling fluids for well construction, well development, well
14 stimulation, or well rehabilitation **regulated by Article 27 of G.S. 113.**

15
16 *History Note:* Authority G.S. 143-215.1; 143-215.3(a);
17 Eff. September 1, 2006.
18 Amended Eff. pending legislative review.
19

1 **15A NCAC 02T .1501 HAS BEEN AMENDED WITH CHANGES AS PUBLISHED IN 28:23 NCR 2814-2820 AS**
2 **FOLLOWS:**

3
4 **15A NCAC 02T .1501 SCOPE**

5 The rules in this Section apply to the Disposal or Treatment of Soils Containing Petroleum Products or other
6 Contaminated Soil by Land Application, Storage, or Containment and Treatment. These Rules do not apply to:

- 7 (1) ~~hazardous waste~~ “hazardous waste” as defined in 40 CFR 260.10 as adopted by reference in 15A
8 NCAC 13A .0102(b), 40 CFR 261.3 as adopted by reference in 15A NCAC 13A .0106(a), and North
9 Carolina General Statute ~~130A-290; or 130A-290;~~
- 10 (2) soil contaminated with ~~hazardous waste~~ “hazardous waste” or ~~hazardous waste constituents~~ “hazardous
11 waste constituents” as defined in 40 CFR 260.10 as adopted by reference in 15A NCAC 13A .0102(b)
12 and 40 CFR 261.3 as adopted by reference in 15A NCAC 13A .0106(a) from ~~Hazardous Waste~~
13 ~~Management Units or Solid Waste Management Units as defined in 40 CFR 260.10 as adopted by~~
14 ~~reference in 15A NCAC 13A .0102(b);~~ [15A NCAC 13A .0102(b);] a “Facility” as defined in 15A
15 NCAC 13A .0102(c); or
- 16 (3) cuttings and other wastes generated in the construction and development of oil and gas wells regulated
17 by Article 27 of G.S. 113.

18
19 *History Note:* Authority G.S. 143-215.1; 143-215.3(a);
20 Eff. September 1, 2006.
21 Amended Eff. pending legislative review.

1 **15A NCAC 02U .0113 HAS BEEN AMENDED WITH CHANGES AS PUBLISHED IN 28:23 NCR 2814-2820 AS**
2 **FOLLOWS:**

3
4 **15A NCAC 02U .0113 PERMITTING BY REGULATION (SEE S.L. 2011-48)**

5 (a) The following utilizations of reclaimed water ~~are deemed to shall~~ be permitted pursuant to G.S. 143-215.1(b) and it ~~is~~
6 ~~not shall not be~~ necessary for the Division to issue individual permits or coverage under a general permit for construction
7 or operation of the following utilization systems provided the system does not result in any violations of surface water or
8 groundwater standards, there is no unpermitted direct discharge to surface waters, and all criteria required for the specific
9 system is met:

- 10 (1) Discharges to the land surface from flushing and hydrostatic testing water associated with utility
11 distribution systems, new sewer ~~extensions extensions~~, or new reclaimed water distribution lines;
- 12 (2) Overflow from elevated reclaimed water storage facilities where no viable alternative exists and all
13 possible measures are taken to reduce the risk of overflow;
- 14 (3) Any de minimus runoff from reclaimed water used during fire fighting or extinguishing, dust control,
15 soil compaction for construction purposes, street sweeping, overspray on yard inlets, overspray on golf
16 cart paths, or vehicle ~~washing provided the use is approved in a permit issued by the Division;~~
17 washing;
- 18 (4) Incidental discharge to a municipal separate storm sewer system (MS4) that occurs as a result of
19 reclaimed water utilization ~~activities provided the use is approved in a permit issued by the Division,~~
20 activities, and the discharge ~~does shall~~ not violate water quality standards. This ~~does shall~~ not exempt
21 the reclaimed water user from complying with any applicable local ordinances that may prohibit such
22 discharges;
- 23 (5) Rehabilitation, repair, or replacement of reclaimed water lines in kind (i.e., size) with the same
24 horizontal and vertical alignment;
- 25 (6) In accordance with 15A NCAC 02H .0106(f)(5), flushing (including air release valve discharge) and
26 hydrostatic testing water discharges associated with reclaimed water distribution systems provided that
27 no water quality standards are violated;
- 28 (7) Utilization of reclaimed water received from a reclaimed water bulk distribution program permitted
29 under Rule .0601 of this Subchapter;
- 30 (8) Irrigation of residential lots or commercial (non-residential) application areas less than one acre in size
31 that are supplied with reclaimed water as part of a conjunctive ~~use reclaimed water~~ system meeting the
32 requirements of Rules .0301, .0401, .0403, .0501, and .0701 of this Subchapter; Chapter 89G of the
33 General Statutes; approved by the local building inspection department; and installed by a North
34 Carolina Licensed Irrigation Contractor pursuant to G.S. 89G. A scaled site map showing the location
35 of the reclaimed water irrigation system and all features necessary to show compliance with applicable
36 setbacks in Rule .0701 of this Subchapter shall be submitted to the reclaimed water provider;

1 (9) Irrigation of agricultural crops supplied with reclaimed water as part of a conjunctive use reclaimed
2 water system meeting the requirements of this Subchapter and approved by the reclaimed water
3 ~~provider; and provider;~~

4 (10) Drip irrigation sites supplied with reclaimed water as part of a conjunctive use reclaimed water system
5 generated from an onsite wastewater treatment facility meeting the criteria of this Subchapter and
6 where the conjunctive system has been approved by the Department and is permitted under ~~18A-1900.~~
7 15A NCAC 18A .1900; and

8 (11) Reuse of produced waters and flowback waters from oil and gas wells regulated by Article 27 of G.S.
9 113 for reuse in accordance with water and waste management plans approved pursuant to rules of the
10 Mining and Energy Commission as set forth in Subchapter 05H of this Title.

11 (b) Nothing in this Rule shall be deemed to allow the violation of any assigned surface water, groundwater, or air quality
12 standards, and in addition any such violation is a violation of a condition of a permit.

13 (c) The reclaimed water user shall report any violation of this Rule or discharge to surface waters from the utilization
14 systems listed in Paragraph (a) of this Rule.

15 (d) Utilization systems deemed permitted under this Subchapter shall remain deemed permitted, notwithstanding any
16 violations of surface water or groundwater standards or violations of this Rule or other Permitted By Regulation rules in
17 this Subchapter, until such time as the Director determines that they ~~should shall~~ not be deemed permitted in accordance
18 with the criteria established in this Rule.

19 (e) The Director may determine that a utilization system should not be deemed to be permitted in accordance with this
20 Rule and require the utilization system to obtain an individual permit or a certificate of coverage under a general permit.
21 This determination shall be made based on existing or projected environmental impacts, compliance with the provisions
22 of this ~~Rule Rule~~, and the compliance history of the facility owner.

23
24 *History Note: Authority G.S. 130A-300; 143-215.1(a)(1); 143-215.1(b)(4)(e); 143-215.3(a),(d);*
25 *Eff. June 18, 2011 (See S.L. 2011-48).*
26 *Amended Eff. pending legislative review.*