

G.S. 150B-21.3A Report for 15A NCAC 02K, DAM SAFETY

Agency - Environmental Management Commission

Comment Period: November 15, 2016 – January 23, 2017

Date Submitted to APO - October 23, 2017

Subchapter	Rule Section	Rule Citation	Rule Name	Date and Last Agency Action on the Rule	Agency Determination [150B-21.3A(c)(1)a]	Implements or Conforms to Federal Regulation [150B-21.3A(e)]	Federal Regulation Citation	Public Comment Received [150B-21.3A(c)(1)]	Agency Determination Following Public Comment [150B-21.3A(c)(1)]	RRC Determination of Public Comments [150B-21.3A(c)(2)]	RRC Final Determination of Status of Rule for Report to APO [150B-21.3A(c)(2)]	OAH Next Steps
	SECTION .0100 - GENERAL PROVISIONS	15A NCAC 02K .0103	PURPOSE	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0104	DEFINITIONS	Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1(f))	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0105	CLASSIFICATION OF DAMS	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	SECTION .0200 - OBTAINING APPROVAL FOR DAM CONSTRUCTION: REPAIR-OR REMOVAL	15A NCAC 02K .0201	APPLICATIONS	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0202	CERTIFICATE OF APPROVAL	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0203	PROFESSIONAL ENGINEER REQUIREMENTS	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0204	INVESTIGATIONS	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0205	SPILLWAY DESIGN	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0206	CONDUITS	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0207	SEEPAGE CONTROL	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0208	STRUCTURAL STABILITY AND SLOPE PROTECTION	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0209	DESIGN LIFE OF A DAM AND RESERVOIR	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0210	SEDIMENT CONTROL	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0211	WASTE TREATMENT AND MINE REFUSE DAMS	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0212	ADDITIONAL DESIGN REQUIREMENTS	Eff. June 15, 1980	Necessary without substantive public interest	No		Yes	Necessary without substantive public interest	One or more comments with merit	Necessary with substantive public interest and must be readopted	Agency must readopt
		15A NCAC 02K .0213	CONSTRUCTION SCHEDULE	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0214	PROPOSED CHANGES IN DESIGN	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note

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		15A NCAC 02K .0215	AS-BUILT PLANS	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0216	ENGINEER'S CERTIFICATION	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0217	AUTHORITY FOR INSPECTION	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0219	ACCEPTABLE DESIGN: PROCEDURES AND TECHNICAL REFERENCES	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0220	GRANTING OF FINAL APPROVAL	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0221	DELEGATION OF AUTHORITY	Amended Eff. November 1, 1982	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0222	APPLICATION PROCESSING FEES	Eff. January 1, 1991	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0223	DAM HEIGHT AND STORAGE DETERMINATION	Eff. January 1, 1991	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	SECTION .0300 - INSPECTIONS: DAM SAFETY ORDERS	15A NCAC 02K .0301	INSPECTION BY THE DEPARTMENT	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0302	DAM SAFETY ORDERS	Eff. June 15, 1980	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
	SECTION .0400 - ADMINISTRATIVE HEARINGS	15A NCAC 02K .0401	OPPORTUNITY FOR HEARING	Amended Eff. July 1, 1988	Unnecessary	No		No	Unnecessary	No comments with merit	Unnecessary and should expire on the first day of the month following the consultation	Rule expired - remove from Code
		15A NCAC 02K .0402	PROCEDURES	Amended Eff. August 1, 2012 (see S.L. 2012-143, s.1.(f))	Unnecessary	No		No	Unnecessary	No comments with merit	Unnecessary and should expire on the first day of the month following the consultation	Rule expired - remove from Code
	SECTION .0500 - MINIMUM STREAM FLOWS TO MAINTAIN AQUATIC HABITAT	15A NCAC 02K .0501	DEFINITIONS	Amended Eff. April 1, 1995	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0502	REQUIRED MINIMUM FLOW FOR DAMS (NOT SMALL HYDRO PROJECTS)	Amended Eff. April 1, 1995	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0503	REQUIRED MINIMUM FLOW FOR SMALL HYDROELECTRIC PROJECTS	Amended Eff. April 1, 1995	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note
		15A NCAC 02K .0504	MONITORING OF MINIMUM FLOW REQUIREMENTS	Eff. December 1, 1994	Necessary without substantive public interest	No		No	Necessary without substantive public interest	No comments with merit	Necessary without substantive public interest and should remain in effect without further action	Keep in Code - Update History Note

**15A NCAC SUBCHAPTER 2K – DAM SAFETY
COMMENT AND AGENCY RESPONSE**

SECTION 200 – OBTAINING APPROVAL FOR DAM CONSTRUCTION: REPAIR: OR REMOVAL

15A NCAC 02K .0212: ADDITIONAL DESIGN REQUIREMENTS

Commenter Name: Not Available

Company/Organization: Not Available

Do I agree with the Agency's determination? Yes

I would determine this rule's classification as: undefined

Do I want to submit a written comment on this rule? Yes

My comment type on this rule is: Another type of comment

Do I want to enter a comment, or submit a file? Enter a comment

My Comment Text: The reference to G.S. 143-215.25(4) should be G.S. 143-215.25(2)

Agency Response:

The agency's selected determination remains as "necessary without substantive public interest." The comment received was not an "objection" to the rule and can be addressed through future rulemaking initiatives.