

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 **will be posted on the Division’s website with 30 days provided for public comment to be**  
36 **submitted to the Director. The permit application will 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, based on the final close out and the end of the  
 29 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.~~ and  
 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/lr/construction-stormwater>.
- 20 (3) For this Rule, 'spudding' the well means starting the oil or gas well drilling process by removing  
 21 rock, dirt, and other sedimentary material with the drill bit. After ~~During~~ initial site clearing,  
 22 grading, 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 the~~ The Division  
 33 shall inspect the permitted stormwater control system. Subsequent to the inspection, the Division  
 34 may withhold acceptance of the designer's certification ~~pending a favorable site inspection by the~~  
 35 ~~Regional Office, upon concluding that the stormwater control system has not been installed in~~  
 36 accordance with the stormwater permit and the approved stormwater permit application  
 37 documents. If the Division fails to inspect the stormwater control system within 72 hours of

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

- (4) After completion of the surface site preparation activity, and beginning with the surface activity in direct support of well ~~drilling and continuing thereafter, drilling,~~ the permittee shall manage site conditions, materials, activities, and stormwater as ~~follows, follows:~~
- (A) ~~Stormwater control measures shall control and treat the runoff from the 1<sup>st</sup> rainfall; or, stormwater control measures shall control and treat the difference in runoff for pre-development and post development conditions for the 90<sup>th</sup> percentile rainfall event.~~ rainfall event with a 24-hour precipitation total greater than or equal to 90 percent of all 24-hour rainfall event totals on an annual basis.
- (B) Stormwater control measures shall discharge at a rate less than or equal to the peak pre-development discharge rate for the 1-year, 24-hour storm.
- (C) Stormwater control measures shall be designed in accordance with the provisions of Rule .1008 of this ~~Section, with options and guidance provided by the version of the Division's Stormwater Best Management Practices Manual current at the time of permit application or permit revision request.~~ Section.
- (D) In addition to the measures identified in Rule .1008(a) of this Section, other measures ~~appearing in the Division's Stormwater Best Management Practices Manual~~ shall be approved where individually, or in combination, the measures achieve 85% average annual removal of Total Suspended Solids, and upon the Division's review and conclusion of appropriate design and suitability for the anticipated site conditions.
- (E) All stormwater control measures shall be equipped with underflow baffles or other effective means to prevent the discharge of hydrocarbons and floating pollutants. and
- (F) The requirements identified in Subparagraphs (1) and (2) of this Paragraph for initial site construction shall also apply to all subsequent phases of site operation.
- (5) ~~The Division shall establish record keeping, self inspection, and self reporting permit requirements to insure effective site management attention, response actions, and control of the potential for polluted stormwater. All records required by this Rule shall be kept on site for the life of the permit.~~
- (6) The permittee shall report all bypasses, malfunctions, failures, and unpermitted discharges of the stormwater control system to the Division's Regional Office within 24 hours of becoming aware of the conditions.
- (7) During the initial site clearing and grading phase of site operations, the permittee shall inspect all erosion control measures weekly and after any storm event greater than 0.5" of rain per 24-hour period; and shall keep written records of the inspections, observations, and response actions. The

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

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

(d) Coordination with other water quality regulations.

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

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

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

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