

**SUBCHAPTER 1C - CONFORMITY WITH NORTH CAROLINA ENVIRONMENTAL  
POLICY ACT****SECTION .0100 - GENERAL PROVISIONS****.0101 STATEMENT OF PURPOSE, POLICY, AND SCOPE**

(a) The purpose of the rules in this Subchapter is to establish procedures within the Department of Environment, Health, and Natural Resources (EHNR) for conforming with the North Carolina Environmental Policy Act (NCEPA).

- (1) Rules for implementation of the NCEPA (1 NCAC 25) are hereby incorporated by reference to include further amendments pursuant to G.S. 150B-21.6. Copies of these Rules can be obtained from the Department of Administration, State Clearinghouse, 116 W. Jones Street, Raleigh, NC 27603 at a cost of twenty-five cents (\$0.25) per page.
- (2) The EHNR's procedures shall insure that environmental documents are available to public officials and citizens before decisions are made and before actions are taken. The information shall be of high quality and sufficient to allow selection among alternatives.

(b) The Secretary is the "responsible state official" for EHNR. The secretary may delegate responsibility for the implementation of the NCEPA to appropriate staff.

(c) The provisions of the rules in this Subchapter, the state rules (1 NCAC 25), and the NCEPA shall be read together as a whole in order to comply with the spirit and letter of the law.

(d) For the purpose of this Chapter:

- (1) "Agency" means the Divisions and Offices of EHNR, as well as the boards, commissions, committees, and councils of EHNR having decision-making authority and adopting these rules by reference; except where the context clearly indicates otherwise.
- (2) "Cumulative Effect" results from the incremental impact of the proposed activity when added to other past, present, and reasonably foreseeable future activities regardless of what entities undertake such other activities. Cumulative effects can result from individually minor but collectively significant activities taking place over a period of time
- (3) "Hazardous Waste" means everything included in its definition at 15A NCAC 13B .0101(11).
- (4) "Indirect Effects" are caused by and result from the proposed activity although they are later in time or further removed in distance, but they are still reasonably foreseeable.
- (5) "Major Activity" means any activity with a potential for significantly affecting the quality of the environment, depending upon how the activity is carried out, including but not limited to construction, management, and maintenance programs and projects.
- (6) "Non-Major Activity" includes those activities that are clearly not major and have only a minimum potential for significantly affecting the quality of the environment.
- (7) "Non-State Entity" includes local governments, special purpose units of government, contractors, and individuals/corporations to which the NCEPA may apply.
- (8) "Secretary" means the Secretary of EHNR.

*History Note: Authority G.S. 113A-2; 113A-6; 113A-9; 143B-10;  
Eff. August 1, 1989;  
Transferred from T15.01D .0201 Eff. November 1, 1989;  
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**.0102 AGENCY COMPLIANCE**

(a) Each EHNR agency shall interpret the provisions of the NCEPA as a supplement to its existing authority and as a mandate to view its policies and programs in the light of the NCEPA's comprehensive environmental objectives, except where existing law applicable to the agency's operations expressly prohibits compliance or makes compliance impossible.

(b) As part of making a decision on a project for which an environmental document has been prepared, the agency decision-maker shall review the document and incorporate it as part of continuing deliberations. The resulting decision shall be made after weighing all of the impacts and mitigation measures presented in the environmental document, which will become part of the decision-making record.

*History Note: Authority G.S. 113A-2; 113A-5; 113A-6; 113A-10; 143B-10;  
Eff. August 1, 1989;*

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**SECTION .0200 - INTEGRATION WITH AGENCY ACTIVITY****.0201 EARLY APPLICATION OF THE NCEPA**

(a) Environmental documents shall be prepared for the following agency activities, where it is deemed by the secretary that a potential effect upon the environment of the state may result. This does not include activities excluded by the minimum criteria set out in Section .0500 of this Subchapter.

- (1) Proposed master plans and management plans for the development or management of lands and waters owned or managed by any EHNR agency, including public trust areas.
- (2) Proposed construction of facilities or infrastructures on lands and waters owned or managed by any EHNR agency. This requirement may be met in whole or in part through the fulfillment of Subparagraph (a)(1) of this Rule.
- (3) Specific programs conducted by EHNR agencies on lands and waters or in the atmosphere owned or managed by the state.
- (4) Projects to be conducted by governmental agencies or for projects to be supported in-whole or in-part by public monies, and requiring EHNR approval.

(b) Environmental documents shall be issued by EHNR agencies for local government and private activities in those cases where EHNR has State Project Agency responsibility.

*History Note: Statutory Authority G.S. 113A-4; 113A-6; 113A-8; 113A-9; 143B-10;  
Eff. August 1, 1989;  
Transferred from T15.01D .0301 Eff. November 1, 1989;  
Amended Eff. March 1, 1990.*

**.0202 WHEN TO PREPARE ENVIRONMENTAL DOCUMENTS**

(a) Agencies may prepare an environmental evaluation, and use the NCEPA process for structure, on any activity at any time in order to assist agency planning and decision-making.

(b) Agencies shall prepare an environmental assessment in accordance with the NCEPA and the related state rules at 1 NCAC 25 for those activities above the thresholds set in EHNR's minimum criteria as set out in Section .0500 of this Subchapter.

(c) An assessment is not necessary if an agency has decided to prepare an environmental impact statement, because the scope or complexity of the activity has a clear potential for environmental effects.

*History Note: Statutory Authority G.S. 113A-2; 113A-4; 113A-6; 143B-10;  
Eff. August 1, 1989;  
Transferred from T15.01D .0302 Eff. November 1, 1989;  
Amended Eff. March 1, 1990.*

**.0203 LEAD AND COOPERATING AGENCY RESPONSIBILITY**

Where EHNR is the State Project Agency the secretary shall appoint a lead agency and cooperating agencies as appropriate. The lead and cooperating agencies' responsibilities shall be established by the secretary.

*History Note: Statutory Authority G.S. 113A-2; 113A-4; 113A-6; 113A-7; 143B-10;  
Eff. August 1, 1989;  
Transferred from T15.01D .0303 Eff. November 1, 1989;  
Amended Eff. March 1, 1990.*

**.0204 SCOPING AND HEARINGS**

EHNR agencies shall utilize scoping and hearing processes in their NCEPA activities appropriate to the complexity, potential for environmental effects, and level of expressed interest associated with the proposed activity. Scoping and hearings shall be carried out in a manner established by the secretary.

*History Note: Statutory Authority G.S. 113A-2; 113A-4; 113A-6; 143B-10;  
Eff. August 1, 1989;  
Transferred from T15.01D .0304 Eff. November 1, 1989;  
Amended Eff. March 1, 1990.*

**SECTION .0300 - PREPARATION OF ENVIRONMENTAL DOCUMENTS****.0301 IMPLEMENTATION**

EHNR agencies shall prepare environmental documents in accordance with the NCEPA, its related rules at 1 NCAC 25, the rules in this Subchapter, and procedures established by the secretary.

*History Note: Statutory Authority G.S. 113A-2; 113A-4; 113A-5; 113A-6; 143B-10;  
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Transferred from T15.01D .0401 Eff. November 1, 1989;  
Amended Eff. March 1, 1990.*

**.0302 INCORPORATION BY REFERENCE**

(a) Agencies shall incorporate material into environmental documents by reference to cut down on bulk without impeding agency and public reviews of the action. The incorporated material shall be cited in the document and its contents briefly described.

(b) Incorporated-by-reference material must be reasonably available for inspection by reviewers and potentially interested persons within the time allowed for comment.

*History Note: Statutory Authority G.S. 113A-4; 113A-6; 113A-10; 143B-10;  
Eff. August 1, 1989;  
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**.0303 INCOMPLETE OR UNAVAILABLE INFORMATION**

(a) Where an agency is evaluating significant effects upon the environment in an environmental document and there are gaps in relevant information or scientific uncertainty, the agency should always make clear that such information is lacking or that uncertainty exists.

(b) If the information relevant to the effects is essential to a reasonable choice among alternatives and the overall costs of and time for obtaining it are not out of proportion to the potential environmental effects of the activity, the agency should include the information in the environmental document.

(c) If the information relevant to the effects is essential to a reasoned choice among alternatives and the overall cost of and time for obtaining it are out of proportion to the potential environmental effects of the activity, or the means of obtaining it are not known (beyond the state of the art), then the agency shall weigh the need for the action against the risk and severity of possible adverse impacts were the action to proceed in the face of uncertainty. If the agency proceeds, it shall include within the environmental document:

- (1) a statement that such information is incomplete or unavailable;
- (2) a statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment;
- (3) a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment; and
- (4) the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community. For the purposes of this Section, "reasonably foreseeable" includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.

*History Note: Statutory Authority G.S. 113A-4; 113A-6; 143B-10;  
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**SECTION .0400 - OTHER REQUIREMENTS****.0401 AGENCY DECISION-MAKING PROCEDURES**

To ensure that EHNR agency decisions are made in accordance with the policies and purposes of the NCEPA, the continuing responsibility for conforming to existing and new procedures and rules shall be conducted in accordance with the directives of the secretary.

*History Note: Statutory Authority G.S. 113A-2; 113A-6; 113A-7; 143B-10;  
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**.0402 LIMITATION ON ACTIONS DURING NCEPA PROCESS**

(a) While work on an environmental document is in progress, no agency shall undertake in the interim any action which might limit the choice among alternatives or otherwise prejudice the ultimate decision on the issue.

(b) If an agency is considering a proposed action for which an environmental document is to be or is being prepared, the agency shall promptly notify the initiating party that the agency cannot take final action until the environmental documentation is completed and available for use as a decision-making tool. The notification shall be consistent with the statutory and regulatory requirements of the agency and may be in the form of a notification that the application is incomplete.

(c) When an agency decides that a proposed activity, for which state actions are pending or have been taken, requires environmental documentation then the agency should promptly notify all action agencies of the decision. When statutory and regulatory requirements prevent an agency from suspending action, the agency shall deny any action for which it determines an environmental document is necessary but not yet available as a decision-making tool.

*History Note: Statutory Authority G.S. 113A-2; 113A-4; 113A-6; 113A-7; 143B-10;  
Eff. August 1, 1989;  
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**.0403 EMERGENCIES**

(a) Where emergency circumstances make it necessary to take an otherwise lawful action with potential environmental effects without observing the public review provisions of the NCEPA, the agency taking the action should notify the secretary and limit actions to those necessary to control and mitigate for the immediate threat to the public health, safety, and welfare.

(b) Agencies are encouraged to prepare and maintain environmental documents for repetitive emergency programs affecting the public, to review the scope of involved activities, identify specific effects to be expected, and mitigation measures that can be employed in various circumstances to assure protection of the public and long-term environmental productivity.

*History Note: Statutory Authority G.S. 113A-4; 113A-6; 113A-7; 143B-10;  
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**.0404 NON-STATE INVOLVEMENT AND CONTRACTORS**

(a) If a lead agency requires a non-state entity to submit environmental information for use by the agency in preparing an environmental document for the non-state entity's activity, then the agency shall assist by outlining the types of information requested. The agency shall independently evaluate the information provided and shall be responsible for its accuracy.

(b) If a lead agency permits a non-state entity to prepare an environmental document, the lead agency shall

furnish guidance and participate in the preparation, and take responsibility for its scope, objectivity, content, and accuracy.

(c) An environmental document may be prepared by a contractor, either selected by or acceptable to the lead agency.

*History Note: Statutory Authority G.S. 113A-4; 113A-5; 113A-6; 113A-9; 143B-10;  
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**SECTION .0500 - MINIMUM CRITERIA****.0501 PURPOSE**

This Section establishes minimum criteria in Rule .0504 of this Section to be used in determining when environmental documents are not required. The minimum criteria, as defined in state rules at 1 NCAC 25, shall be used by the Secretary and EHNR agencies to provide sound decision-making processes by allowing separation of activities with a high potential for environmental effects (major) from those with only a minimum potential (non-major).

*History Note: Authority G.S. 113A-2; 113A-4; 113A-6; 143B-10;  
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**.0502 MAJOR ACTIVITIES**

(a) Major activities requiring environmental documents for review by decision-makers and the public are those presented in Section .0200 of this Subchapter, and not otherwise excluded by these minimum criteria.

(b) Major activities taken after preparation of and in conformance with a master plan, management plan, or program for which an environmental document was completed, may require an environmental assessment, a finding of no significant impact, or a record of decision. Determination of which type of document is most appropriate will be made after considering:

- (1) the need for updating information in the earlier broader document as it relates to current conditions and the proposed activity, and
- (2) the specificity and sufficiency of the earlier, broader document in addressing the effects of the proposed activity.

(c) Demolition of or additions, rehabilitation and/or renovations to a structure listed in the National Register of Historic Places or more than 50 years of age except where agreement exists with the Department of Cultural Resources that the structure lacks architectural or historical significance.

(d) Ground disturbances involving Natural Register listed archaeological sites or areas around buildings 50 years old or older, except where agreement exists with the Department of Cultural Resources.

*History Note: Authority G.S. 113A-4; 113A-6; 113A-9; 113A-10; 143B-10;  
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**.0503 EXCEPTIONS TO MINIMUM CRITERIA**

Any activity falling within the parameters of the minimum criteria set out in Rule .0504 of this Section shall not routinely be required to have environmental documentation under the NCEPA. However, the Secretary of EHNR may determine that environmental documents under the NCEPA are required in any case where one of the following findings applies to a proposed activity.

- (1) The proposed activity may have a potential for significant adverse effects on wetlands, parklands, prime or unique agricultural lands, or areas of recognized scenic, recreational, archaeological, or historical value including indirect effects; or would threaten a habitat identified on the Department of Interior's or the state's threatened and endangered species lists.
- (2) The proposed activity could cause significant changes in industrial, commercial, residential, agricultural, or silvicultural land use concentrations or distributions which would be expected to create adverse water quality, air quality, or ground water impacts; or affect long-term recreational benefits, shellfish, wildlife, or their natural habitats.
- (3) The proposed activity has indirect effect, or is part of cumulative effects, not generally covered in the approval process for the state action, and that may result in a potential risk to human health or the environment.
- (4) The proposed activity is of such an unusual nature or has such widespread implications that an uncommon concern for its environmental effects has been expressed to the agency.

*History Note: Authority G.S. 113A-4; 113A-6; 113A-9; 113A-10; 113A-11; 113A-12; 143B-10;  
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**.0504 NON-MAJOR ACTIVITY**

The following minimum criteria are established as an indicator of the types and classes of thresholds of activity at and below which environmental documentation under the NCEPA is not required. As set out in Rule .0503 of this Section, the Secretary may require environmental documentation for activities that would otherwise qualify under these minimum criteria thresholds.

- (1) Sampling, survey, monitoring and related research activities including but not limited to the following:
  - (a) Aerial photography projects involving the photographing or mapping of the lands of the state.
  - (b) Biology sampling and monitoring of:
    - (i) Fisheries resources through the use of traditional commercial fishing gear, electricity, and rotenone; and
    - (ii) Wildlife resources through the use of traditional techniques, including but not limited to traps, drugs, and firearms.
  - (c) Soil survey projects involving the sampling or mapping of the soils of the state.
  - (d) Establishing stream gaging stations for the purpose of measuring water flow at a particular site.
  - (e) Placement of monitoring wells for the purpose of measuring groundwater levels, quantity, or quality.
  - (f) Gathering surface or subsurface information on the geology, minerals, or energy resources, of the state.
  - (g) Placement and use of geodetic survey control points.
  - (h) Other routine survey and resource monitoring activities, or other temporary activities required for research into the environment which have minimum long-term effects.
- (2) Standard maintenance or repair activities as needed to maintain the originally defined function of an existing project or facility (but without expansion, increase in quantity, decrease in quality/use, or release of hazardous waste) including but not limited to the following:
  - (a) Routine repairs and housekeeping projects which maintain a facility's original condition and physical features, including re-roofing and minor alterations where in-kind materials and techniques are used. This also encompasses structures 50 years of age and older and for which no separate law, rule, or regulation dictates a formal review and approval process.
  - (b) Roads, bridges, parking lots, and their related facilities.
  - (c) Utilities on their existing rights-of-way.
  - (d) Surface drainage systems, including modifications which reduce the discharge of freshwater or otherwise mitigate existing negative environmental effects.
  - (e) Boat ramps, docks, piers, bulkheads, and associated facilities.
  - (f) Diked, highground dredge-material disposal areas.
  - (g) Activities necessary to fulfill the existing requirements of in-effect permits for the protection of the environment and human health.
  - (h) Other maintenance and repair activities on projects which are consistent with previously approved environmental documents.
  - (i) Routine grounds maintenance and landscaping, such as sidewalks, trails, walls, gates, and related facilities, including outdoor exhibits.
- (3) Minor construction activities, (except that conditions may cause exceptions to these thresholds per Rule .0503 of this Section) including but not limited to the following:
  - (a) Wastewater treatment systems such as the following:
    - (i) Relocation of discharge points within the same river basin;
    - (ii) New discharge facility of less than 500,000 gallons per day and producing an instream waste concentration of less than 33 percent during the 7-day 10-year low flow conditions;
    - (iii) Expansion of an existing discharge facility of less than 500,000 gallons per day addition flow;
    - (iv) New wastewater spray irrigation, rotary distribution, or subsurface waste water systems with a final capacity not exceeding 100,000 gallons per day;
    - (v) New individual land application sites for residuals utilization with less than 200 total acres of application area per site or expansions under existing permits of less than 200 additional acres of application area per site, where less than 10 percent of the total land application area is converted from a non-plantation forested area;
    - (vi) Sewer extensions with either, less than three miles of new lines or a design flow less than 1,000,000 gallons per day; and
    - (vii) New individual pump stations with a design flow less than 1,000,000 gallons per day or expansions of existing pump stations with less than 1,000,000 gallons per day additional flow.
  - (b) Potable water systems such as the following:

- (i) Construction of new wells for water supply purposes;
  - (ii) Improvements to water treatment plants that involve less than 1,000,000 gallons per day added capacity and design withdrawal less than one-fifth of the 7-day, 10-year low flow of the contributing stream;
  - (iii) Improvements not intended to add capacity to the facility;
  - (iv) Installation of water lines in proposed or existing rights-of-way for streets or utilities, or new water lines less than five miles in length; and
  - (v) Construction of water tanks, or booster pumping or re-chlorination pump stations.
  - (c) Groundwater withdrawals of less than 1,000,000 gallons per day where such withdrawals are not expected to cause a significant alteration in established land use patterns, or degradation of groundwater or surface water quality.
  - (d) Solid waste disposal activities such as the following:
    - (i) Construction of solid waste management facilities, other than landfills exempt pursuant to NCGS 130A-294 (a) (4), which store, treat, process incinerate, or dispose of less than 350 tons per day (averaged over one year) of solid waste;
    - (ii) Disposal of solid waste by land application on 100 total acres or less, where less than 10 percent of the total land application area is converted from a non-plantation forested area; and
    - (iii) Land disturbing activities which are not located within High Quality Waters (HQW) Zones or Trout Water Buffer Zones, and land-disturbing activities that will disturb less than five acres within a HQW Zone or a Trout Water Buffer Zone.
  - (e) Development activities within Areas of Environmental Concern (AECs) of the 20 county coastal area which do not require a Coastal Area Management Act (CAMA) Major or Minor Permit pursuant to 15A NCAC 7K, Activities in Areas of Environmental Concern which Do Not Require a Coastal Area Management Act Permit, except activities which might require a NCEPA Environmental Document under provisions of another state approval or authorization.
  - (f) Development activities within AECs of the 20 county coastal area which require a CAMA Major or Minor Permit and which meet all applicable criteria set forth in 15A NCAC 7H, State Guidelines for Areas of Environmental Concern), except the following:
    - (i) New marinas;
    - (ii) New navigation channels;
    - (iii) Excavation of materials from aquatic environments for use for beach nourishment or other purposes not directly related to approved navigation projects; and
    - (iv) Any activity which might require a NCEPA environmental document under provisions of another state approval or state or local governmental agency requirement.
  - (g) Air emissions of pollutants from a minor source or modification as defined in 15A NCAC 2D .0530, that are less than 100 tons per year or 250 tons per year as defined therein.
  - (h) Reclamation of underground storage tanks and restoration of groundwater quality.
  - (i) Dams less than 25 feet in height and having less than 50 acre-feet of storage capacity.
  - (j) Land disturbing activities which are not located within High Quality Water (HQW) Zones or Trout Water Buffer Zones, and land-disturbing activities that will disturb less than five acres within a HQW Zone or a Trout Water Buffer Zone.
  - (k) Any new construction for a building which involves all of the following:
    - (i) A footprint of less than 10,000 square feet;
    - (ii) A location that is not a National Register Archaeological site; and
    - (iii) The building's purpose is not for storage of hazardous waste.
  - (l) Demolition of or additions, rehabilitation or renovations to a structure not listed in the National Register of Historic places or less than 50 years of age.
  - (m) Routine grounds construction and landscaping, such as sidewalks, trails, walls, gates and related facilities, including outdoor exhibits.
  - (n) Installation of on-farm Best Management Practices for the NC Cost Share Program for Nonpoint Source Pollution Control codified as 15A NCAC 6E.
  - (o) Construction or remodeling of swimming pools.
- (4) Management activities including but not limited to the following:
- (a) Replenishment of shellfish beds through the placement of seed oysters or shellfish clutch on suitable marine habitats.
  - (b) Creation and enhancement of marine fisheries habitat through the establishment of artificial reefs in accordance with the Division of Marine Fisheries' Artificial Reef Master Plan.
  - (c) Placement of fish attractors and shelter in public waters managed by the N.C. Wildlife Resources Commission.

- (d) Translocation and stocking of native or naturalized fish and wildlife in accordance with appropriate agency species management plans, watershed management plans, or other approved resource management plans.
- (e) Reintroduction of native endangered or threatened species in accordance with State or Federal guidelines or recovery plans.
- (f) Production of native and agricultural plant species to create or enhance fish or wildlife habitat and forest resources, including fertilization, planting, mowing, and burning in accordance with fisheries, wildlife, or forestry management plans.
- (g) Forest products harvest in accordance with the National Forest Service or the N.C. Division of Forest Resources forest products management plans.
- (h) Reforestation of woodlands in accordance with the National Forest Service or the N.C. Division of Forest Resources woodlands management plans.
- (i) Use of forestry best management practices to meet the performance standards in Forest Practice Guidelines Related to Water Quality codified as 15A NCAC 1I.
- (j) Control of forest or agricultural insects and disease outbreaks, by lawful application of labeled pesticides and herbicides by licensed applicators, on areas of no more than 100 acres.
- (k) Control of species composition on managed forest lands as prescribed by approved forest management plans by the lawful application of herbicides by licensed applicators.
- (l) Control of aquatic weeds in stream channels, canals and other water bodies, by the lawful application of labeled herbicides by licensed applicators, on areas of no more than two acres or 25 percent of surface area, whichever is less.
- (m) Removal of logs, stumps, trees, and other debris from stream channels where there is no channel excavation, and activities are carried out in accordance with "Best Management Practices (BMPs) for Selective Clearing and Snagging," Appendix B in Incremental Effects of Large Woody Debris Removal on Physical Aquatic Habitat, US Army Corps of Engineers Technical Report EL-92-35, Smith et al, 1992, or other guidelines approved through the Intergovernmental Review process as set out at 1 NCAC 25 .0211.
- (n) Dredging of existing navigation channels and basins to originally approved specifications, provided that the spoil is placed in existing and approved high ground disposal areas.
- (o) Controlled or prescribed burning for wildlife, timber enhancement, and hazard reduction in accordance with applicable management plans.
- (p) Plowing fire lines with tractor plow units, or other mechanized equipment, for the purpose of suppressing wildland (brush, grass, or woodland) fires and prescribed burning.
- (q) Scooping or dipping water from streams, lakes, or sounds with aircraft or helicopters for the purpose of suppressing wildland (brush, grass, or woodland) fires.
- (r) Drainage projects where the mean seasonal water table elevation will be lowered less than one foot over an area of one square mile or less, and riparian and wetland areas will not be permanently effected.
- (s) Manipulation of water levels in reservoirs or impoundments in accordance with approved management plans, for the purpose of providing for water supply storage, flood control, recreation, hydroelectric power, fish and wildlife, and aquatic weed control.
- (t) Specific modifications in previously permitted discharges resulting in an increased flow of less than 500,000 gallons per day.
- (u) Installation of on-farm Best Management Practices for the N.C. Cost Share Program For Nonpoint Source Pollution Control codified as 15A NCAC 6E.
- (v) Continuation of previously permitted activities where no increase in quantity or decrease in quality are proposed.
- (w) Acquisition or acceptance of real property to be retained in a totally natural condition for its environmental benefits, or to be managed in accordance with plans for which environmental documents have been approved.
- (x) Care of all trees, plants, and groundcovers on public lands.
- (y) Care, including medical treatment, of all animals maintained for public display.
- (z) Activities authorized for control of mosquitoes such as the following:
  - (i) Mosquito control water management work in freshwater streams performed in accordance with "Best Management Practices (BMPs) for Selective Clearing and Snagging" Appendix B in Incremental Effects of Large Woody Debris Removal on Physical Aquatic Habitat, US Army Corps of Engineers Technical Report EL-92-35, Smith et al, 1992, or other guidelines reviewed through the Intergovernmental Review process as set out at 1 NCAC 25 .0211;

- (ii) Mosquito control water management work in salt marsh environments performed under Open Marsh Water Management guidelines reviewed through the Intergovernmental Review process as set out at 1 NCAC 25 .0211;
  - (iii) Lawful application of chemicals approved for mosquito control by the United States Environmental Protection Agency and the State when performed under the supervision of licensed operators; and
  - (iv) Lawful use of established species to control mosquitoes.
- (5) Private use of public lands including but not limited to the following activities, when conducted in accordance with permit requirements:
- (a) Use of pound nets.
  - (b) Mechanical shellfish harvesting.
  - (c) Shellfish relaying and transplanting.
  - (d) Harvest of shellfish during closed season.
  - (e) Special fisheries management activities under 15A NCAC 3I .0012.
  - (f) Aquaculture operations within coastal waters.
  - (g) Scientific collecting within coastal waters.
  - (h) Introduction and transfer of marine and estuarine organisms.
  - (i) Development activities within Areas of Environmental Concern (AECs) of the 20 county coastal area which do not require a Coastal Area Management Act (CAMA) Major or Minor Permit pursuant to 15A NCAC 7K, Activities in Areas of Environmental Concern Which Do Not Require a Coastal Area Management Act Permit, except activities which might require a NCEPA Environmental Document under provisions of another state approval or authorization.
  - (j) Development activities within AECs of the 20 county coastal area which require a CAMA Major or Minor Permit and which meet all applicable criteria set forth in 15A NCAC 7H, State Guidelines for Areas of Environmental Concern, except the following:
    - (i) New marinas;
    - (ii) New navigation channels;
    - (iii) Excavation of material from aquatic environments for use for beach nourishment or other purposes not directly related to approved navigation projects; and
    - (iv) Any activity which might require a NCEPA environmental document under provisions of another state approval or state or local governmental agency requirement.
  - (k) Construction of piers and boat docks on all State Lakes when conducted in accordance with 15A NCAC 12C .0300.

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**15A NCAC 01C .0402 LIMITATION ON ACTIONS DURING NCEPA PROCESS**

(a) While work on an environmental document is in progress, no agency shall undertake in the interim any action which might limit the choice among alternatives or otherwise prejudice the ultimate decision on the issue. A permit approval or other action to approve land disturbing activity or construction of part of the project or action, other than those actions necessary for gathering information needed to prepare the environmental document, limits the choice among alternatives and shall not be approved until the final environmental document for the action is published in the Bulletin and adopted by the agency through the procedures established by the Department of Administration's Rules for administering NCEPA and this Subchapter of the Department's rules.

(b) If an agency is considering a proposed action for which an environmental document is to be or is being prepared, the agency shall promptly notify the initiating party that the agency cannot take final action until the environmental documentation is completed and available for use as a decision making tool. The notification shall be consistent with the statutory and regulatory requirements of the agency and may be in the form of a notification that the application is incomplete.

(c) When an agency decides that a proposed activity, for which state actions are pending or have been taken, requires environmental documentation then the agency should promptly notify all action agencies of the decision. When statutory and regulatory requirements prevent an agency from suspending action, the agency shall deny any action for which it determines an environmental document is necessary but not yet available as a decision making tool.

*History Note: Authority G.S. 113A-2; 113A-4; 113A-6; 113A-7; 143B-10;  
Eff. August 1, 1989;  
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