



December 10, 2015

*Department of Environmental Quality
Division of Energy, Mineral, and Land Resources
Land Quality Section UPDATE*



Land Quality Update

Erosion and Sediment Control Planning and Design Workshop

W.E. Toby Vinson, PE, CPESC, CPM

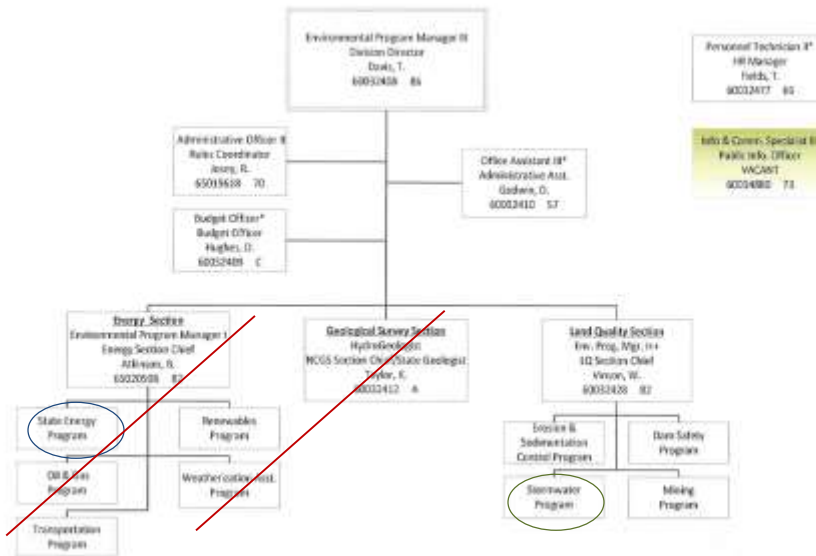


Topics

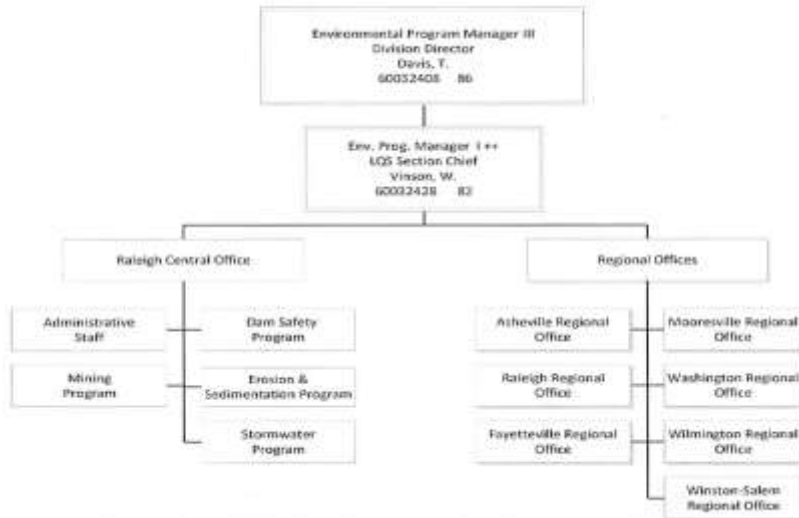
- DEMLR Reorganization and Enforcement
- Energy Program
- Customer Service Activities
- Regulatory Updates



Land Quality Section O-Chart, August 1, 2014



NC Land Quality Section



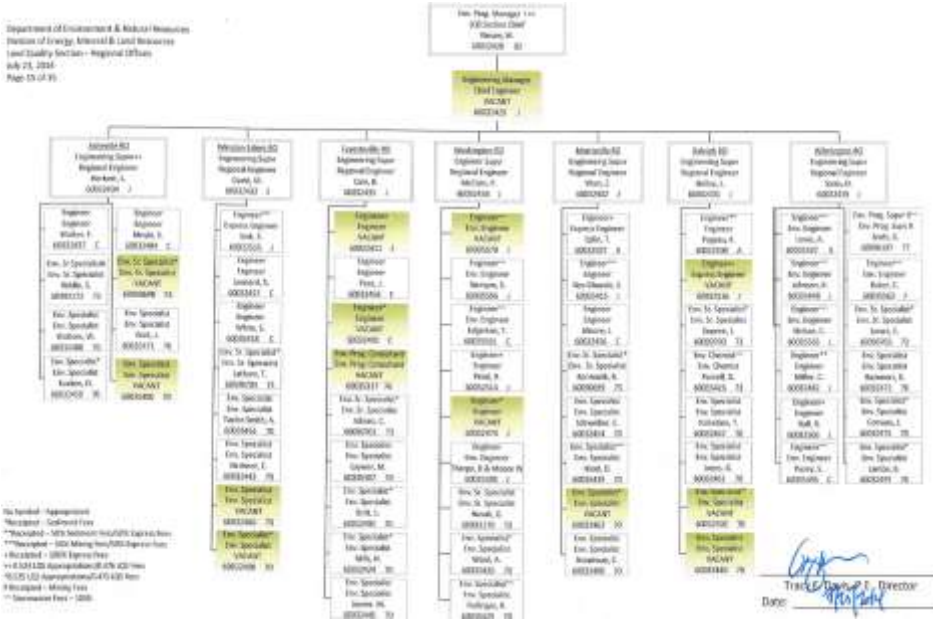
NC Land Quality Section

- Winston-Salem Regional Office –
 - New Office and Contact Information
 - Address:
 - 450 West Hanes Mill Road, Suite 300,
 - Winston-Salem, NC 27105
 - Phone:
 - (336) 776-9800



LQS Regional Office Org Chart

Department of Environment & Natural Resources
 Division of Energy, Minerals & Land Resources
 Land Quality Section - Regional Office
 July 23, 2014
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Stormwater Program Update

- Cross-Training into existing programs
 - Sediment Program
 - Mining Program
- Rules Redoption
 - Have passed the Water Quality Committee of the EMC and will go to January EMC meeting for final approval
- “Fast-Track Permitting”
 - Minimum Design Criteria
 - Technical Working Group
 - Rules by July 2016



Combined Inspections

- With E&SC Program
- Enforcement with E&SC Program and Mining Program



Mining Commission and Energy Commission

- There are officially two new Commissions as of August 1, 2015



Customer Service Activities

- Workshops – 1 in Fall (This is it)
- Other Workshops for Continued Training
 - Possible online workshops this year
 - Local Programs Workshop in the Late Spring
- Electronic Permitting and Inspections (AMANDA/ECLIPS)



Electronic Permitting and Inspections

- AMANDA – ECLIPS
 - Back Office –
 - Portal – DITS is working on this
 - Mobile Inspections (Pilot) –
 - Mobile Inspections Statewide –



Regulatory Updates

- Review State Environmental Rules –
 - Stormwater – 2014-15
 - Sediment – 2015-16
 - Mining – 2016
 - Dam Safety – 2017
- Sediment Program Updates
 - Special Provisions – Civil Penalty Remissions by the SCC
 - Within 60 days
 - Includes waiver of the right to a contested case and stipulation of facts on which assessment was based
 - Factors considered for remission – financial impact/hardship, penalty prevents remedial action, prior record



More Regulatory Updates

- Sediment Program Updates
 - Special Provisions – First Time Violator Cap
 - If Responsible Party abates environmental damage resulting from a violation within 180 days from date of NOV, Max Penalty is \$25,000.00
- Sediment Program Updates
 - Special Provisions – Hand Delivery of NOV and Technical Assistance for First Time Violators
- SL 2015-1 (HB157), Amend Environmental Laws:
 - Expands Governor's Appointment to IMCC to include DEQ Representative (Director Level or Higher)
- SL 2015-7 (SB14), Extended EAP requirement for Intermediate and High Hazard Dams from March 1, 2015 to December 31, 2015. Also clarified that not all inundation maps require a PE Seal. Requires study with NCBELS to determine when such a map requires a PE Seal by March 31, 2016.
- SL 2015-90 (HB795), SEPA Reform
 - Applies now to projects using more that \$10 million of state funds or disturbs 10 contiguous acres or more (Exemptions include utility lines, DWR certifications and coal closure activities)



More Regulatory Updates

- SL 2015-149 (HB634), Clarify Definition of Built-Up Area for Stormwater
 - Exempts a surface of number 57 stone, as designated by ASTM, laid at least 4 inches thick over a geotextile fabric and
 - A trail as defined by the NC Trails Act that is either unpaved or paved provided the pavement is porous with a hydraulic conductivity greater than 0.001 cm/s (1.41 in/hr)
 - EMC is to adopt rules to implement this provision; (NOTE: EMC rule making is being included in H74 rules re-adoption process already underway with final adoption by 7/2016)



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Even More Regulatory Updates

- **SL 2015-263 (SB 513), 9/30/2015 – NC Farm Act of 2015:**
 - Exempts activities to restore wetland functions of converted wetlands to provide compensatory mitigation from the Sedimentation Pollution Control Act, including activities undertaken by NRCS standards
 - Amends the definition of mining relative to agricultural activities by exempting excavation or grading when conducted solely for activities undertaken on agricultural land that are exempt from the SPCA (borrow pits providing material to agricultural sites exempted from the SPCA); while these offsite borrow pits are no longer covered under the Mining Act, they should be covered by the SPCA if not agriculturally exempt themselves
 - Exempts contagious disease control activities from all environmental permitting requirements (considered permitted by rule); DEMLR, DWM, DWR, and DAQ are participating on DEQ's Highly Pathogenic Avian Influenza (HPAI) response team to advise the Dept. of Agriculture and Dept. of Crime Control and Public Safety on best management practices to prevent environmental impacts



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Guess What? Even More Regulatory Updates

- **SL 2015-286 (HB 765), 10/22/2015 – Regulatory Reform Act of 2015:**
 - If a rule is readopted without substantive changes or amended to impose less stringent burden, no fiscal note is required
 - Environmental Self Audit Privilege and Limited Immunity established to encourage operators to conduct voluntary internal compliance audits and improve compliance while protecting the confidentiality of communications relating to such audits; self audit report not admissible in CPA proceedings and is considered privileged unless waived (what agency finds and other items are admissible and not privileged); operator may voluntarily disclose self audit report and receive waiver of CPA after agency certifies violation corrected within reasonable time (but audit is now a public record); if compliance not timely, agency retains discretion to assess penalties; there are timeframes within which the audits/disclosure must be reported to the regulatory agency; privilege can only be exercised once in a two year period, not more than twice in a five year period, and not more than three times in a ten year period; no preemption by local laws allowed; DEQ must submit Part 7D of Chapter 8 (this ESAP statute) to EPA within 30 days of enactment to gain EPA approval of such provisions for federal programs administered in NC; DEQ must report to ERC by 12/1/2015 on its progress in gaining EPA approval and every month thereafter until EPA approves this provision; this provision becomes effective upon the date of approval by EPA



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SL 2015-286 (HB 765), 10/22/2015 – Regulatory Reform Act of 2015: Continued

- DEQ/DEMLR shall evaluate water quality in coastal counties and impact of SW on water quality; determine maximum allowable BUA for low density state SW as directly related to grassed swale treatment length to achieve increased BUA above current limits; DEQ/DEMLR shall submit recommendations to the ERC of the General Assembly for levels of increases in BUA that can be supported with corresponding increases in length of grassed swales through which SW must pass by 4/1/2016
- Amends stormwater management law (Section 3 of SL 2013-82) that requires EMC to adopt rules for fast track permitting by July 1, 2016 to no later than November 1, 2016; DEMLR plans to incorporate this rulemaking into its SW rule reoption process with the rule bundle being adopted by the EMC in 7/2016



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SL 2015-286 (HB 765), 10/22/2015 – Regulatory Reform Act of 2015:
Continued

- Amends Built Upon Area definition under 143-214.7(b2) by adding that for state SW and local programs, the following shall apply: one-year, 24-hour storm and difference in SW runoff from pre and post development for the one year, 24-hour storm shall be calculated using any acceptable engineering hydrologic and hydraulic methods; development may occur within the vegetative buffer used to protect SA, ORW and HQW provided SW runoff from development is collected and treated from the entire impervious area and discharged so it passes through the vegetative buffer and is managed to comply with all state and federal SW requirements; requirements that apply to development within ½ mile of and draining to SA waters and unnamed freshwater tributaries shall not apply to development activities and associated SW discharges that occur outside this distance; these additional changes to the SW BUA definition will be properly referenced in the current SW rule readoption process/package which should be adopted by the EMC in 7/2016
- EMC shall review SW programs submitted by state agencies and local governments and approve them only if it finds that the standards of the program equal (not exceed) those of the model program adopted by the EMC; state agencies and local governments must submit their current SW program or a revised SW program to the EMC by 3/1/2016 and the EMC must complete its review and act on each submitted SW program by 12/1/2016



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SL 2015-286 (HB 765), 10/22/2015 – Regulatory Reform Act of 2015:
Continued

- ERC with DEQ assistance shall review the current status of state statutes, session laws, rules, and guidance documents related to SW management; examine whether state statutes, etc. should be recodified or reorganized in order to clarify state law for SW management; ERC to submit legislative recommendations, if any, to the 2016 General Assembly
- Addition of a cluster box unit to a single family or duplex development permitted by local government shall not require a modification to any SW permit for that development; only applies to development in which individual curbside mailboxes are replaced with cluster box units where the associated BUA supporting the CBU is considered incidental and will not be included in the calculation of BUA; this provision is effective immediately and until it expires on December 31, 2017 or when regulations on CBU by US Postal Service become effective and are adopted by local governments, whichever is earlier
- DEQ shall study the impacts of exempting construction, maintenance, and removal of linear utility projects from any DEQ and most Commission established environmental regulations; "linear utility project" means an electric power line, water line, sewage line, stormwater drainage line, telephone line, cable television line, data transmission line, communications-related line, or natural gas pipeline; DEQ is to report its findings to the ERC by 3/1/2016



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Questions???



W.E. Toby Vinson, PE, CPESC, CFM, CPM

Chief of Land Quality Section

E-Mail: toby.vinson@ncdenr.gov

Phone: (919) 707-9220

