

CHAPTER 39 - DEPARTMENT OF ADMINISTRATION'S MINIMUM CRITERIA

SECTION .0100 - PURPOSE

01 NCAC 39 .0101 PURPOSE

The purpose of these minimum criteria is to establish threshold levels for minor operations or small routine facility projects in this Rule which no filing of environmental documents under G.S. 113A shall be required. The primary emphases of these minimum criteria are to:

- (1) insure that protection is provided to the environment in the State Government Center and at other properties under the control of the Department of Administration throughout the state;
- (2) insure that environmental impacts are considered prior to approving activities on the state's sensitive areas, defined as those which are delineated or protected under one or more of the following:
 - (a) Wetlands by the U.S. Army Corps of Engineers under 33 CFR 328.3 and 40 CFR 230.3;
 - (b) National Historic Preservation Act of 1966, as amended and National Executive Order 11593 and State Executive Order 16 administered by the North Carolina Department of Cultural Resources;
 - (c) Prime Agricultural and Forest Lands identified under P.L. 97-98 and State Executive Order 96;
 - (d) State Park Lands designated under G.S. 113-44.9;
 - (e) State Game Lands administered under G.S. 113-264 and 306(d);
 - (f) State Forest Lands administered under G.S. 113-22 and 29;
 - (g) State Nature Preserves and Dedicated Natural Areas administered under G.S. 113A-164.1;
 - (h) Primary and Secondary Nurseries designated in accordance with 15A NCAC 03R .0103 - .0105 and 15A NCAC 10C .0503, and Critical Habitat Areas designated in accordance with 15A NCAC 03I .0101 and 15A NCAC 10I .0101(a)(5);
 - (i) State High Quality Waters designated in accordance with 15A NCAC 02B .0201(d); this includes waters classified as WS-I, WS-II, SA and ORW (Outstanding Resource Waters);
 - (j) State Natural and Scenic Rivers designated under G.S. 113A-30;
 - (k) North Carolina Coastal Reserves designated under G.S. 113A-129.1;
 - (l) State Lakes administered under G.S. 146-3; and
 - (m) Lands which contain animal or plant species protected by the Federal Threatened and Endangered Species Act (administered by the U.S. Fish and Wildlife Service), State Endangered and Threatened Wildlife and Wildlife Species of Special Concern Act (G.S. 113-331 administered by the North Carolina Wildlife Resources Commission), or State Plant Protection and Conservation Act (G.S. 106-202.12 administered by the North Carolina Department of Agriculture); and
- (3) permit the implementation of the routine operations, maintenance, repair, or construction tasks which the state is required to undertake without undue delay or expense.

*History Note: Authority G.S. 113A-11;
Eff. October 1, 1993;
Amended Eff. January 1, 1997;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*

SECTION .0200 - NON-MAJOR ACTIVITIES

01 NCAC 39 .0201 NON-MAJOR ACTIVITIES

The following list of criteria shall be considered as descriptive of routine operations, small construction projects, and routine maintenance projects which do not require the filing of an Environmental Impact Statement, Environmental Assessment, or a Finding of No Significant Impact:

- (1) Any action which involves relocation of staff members into a site using existing State buildings or leased buildings for which the building occupancy classification is not changed.

- (2) Routine disposal operations of hazardous chemicals, asbestos, or other environmentally sensitive operations for which a written procedure has been established, reviewed by appropriate authority, and determined to be in keeping with state or federal law.
- (3) 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.
- (4) 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.
- (5) Purchase by the Department of Administration for Department of Administration's use of real estate for which the use of the real estate does not vary from its intended purpose or function at the time of purchase or is consistent with local land use plans.
- (6) The use of chemicals for boiler feedwater treatment, cooling tower water treatment, pesticides, herbicides, cleaning solvents, and other chemical products which may be considered environmentally sensitive, provided the materials are stored and utilized in keeping with the applicable Material Safety Data Sheet (MSDS).
- (7) The handling of asbestos incident to a repair, maintenance, or minor construction project provided that the asbestos material is removed, stored, disposed of, and handled in accordance with procedures for processing asbestos found in 15A NCAC 19C .0600, 13 NCAC 7F .0201, 13 NCAC 7F .0500 and N.C.G.S. Chs. 95, 97 and 130A.
- (8) New construction involving all of the following:
 - (a) A footprint of less than 10,000 square feet;
 - (b) A location that is not a National Register Archaeological site; and
 - (c) The use of the structure does not involve the handling or the storage of hazardous materials.
- (9) Routine grounds maintenance and landscaping.
- (10) Routine repair of existing parking lots.
- (11) Installation of outdoor sculpture(s) or exhibits.
- (12) Granting of leases, easements, or permits authorizing use of public land for any of the following:
 - (a) Installation of aerial and sub-aqueous pipes or pipelines for the transportation of potable water, and any cable line or line for the transmission of electrical energy, not requiring a certificate of environmental compatibility and public convenience from the North Carolina Utilities Commission, telephone or telegraph messages, and radio and television communications.
 - (b) Communication towers not located in sensitive areas as defined in Rule .0101(2) of this Chapter.
 - (c) Construction of a road in accordance with accepted design practices and in compliance with North Carolina Department of Transportation standards and specifications, involving less than 25 cumulative acres of ground surface not located in sensitive areas.
 - (d) Filling below the mean high water mark when such filling has been approved by the U.S. Army Corps of Engineers or the North Carolina Division of Coastal Management.
 - (e) Sewer line installations not exceeding the minimum criteria of the permitting agency and not located in sensitive areas.
 - (f) Ground water withdrawals not exceeding the minimum criteria of the permitting agency and not located in sensitive areas.
 - (g) Where the proposed use of the public land does not exceed the minimum criteria established by the agency recommending the lease, easement, or permit.
 - (h) Piers and boat docks on all State Lakes when constructed in accordance with 15A NCAC 12C .0300.
 - (i) Structures or piers and boat docks involving less than 11 slips.
 - (j) Granting of voluntary easements for structures existing as of October 1, 1995, in accordance with G.S. 146-12(b).
- (13) Exchange or purchase of land where no agreement exists for the private land to be developed for use in any way that results in a change in the natural cover or topography prior to the exchange or purchase.

- (14) Timber harvest in accordance with the National Forest Service or the North Carolina Division of Forest Resources Management's Plans and recognized best management practices.

History Note: Authority G.S. 113A-11;
Eff. July 1, 1993;
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Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.

SECTION .0300 - EXCEPTIONS

01 NCAC 39 .0301 EXCEPTIONS TO MINIMUM CRITERIA

The Secretary of the Department of Administration may determine that environmental documents under the North Carolina Environmental Policy Act are required in any case where one of the following findings applies to a Department of Administration proposed activity:

- (1) The proposed activity is located in a sensitive area.
- (2) The proposed activity could cause 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 impacts, 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.

History Note: Authority G.S. 113A-11;
Eff. October 1, 1993;
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