

**List of Outstanding Major Issues that still need to be Discussed / Resolved in the
Costal Stormwater Rule 605 Process**

1. Should low density thresholds remain at 12% for within ½ mile of shellfishing waters and 24% for that area beyond ½ mile of shellfishing waters?
Response – Changes in paragraph (b)(5) to exclude only CAMA Coastal wetlands from the built-upon area calculations provides response to this issue.
2. Should all isolated and jurisdictional wetland areas within the project site be excluded from impervious surface calculations?
Response – same as #1, change to wetlands provides response
3. Should we retain the runoff from the pre and post development conditions for the 1-year, 24-hour storm as the design storm for high density within ½ mile of shellfishing waters or should this “design storm” requirement be changed to the runoff from the first 2.5, or 2.0, inches of rain?
Response – Alternative language to control runoff from the first 2.5 inches of rainfall has been developed, however, this language has not been included in the Rule at this time.
4. Should the vegetated setback remain at 50 feet for new development or should this be set at 30 feet, as it is for redevelopment?
5. Should the rule allow for the use of stormwater BMPs other than infiltration for high density projects within ½ mile of shellfishing waters or should infiltration be required as the only stormwater BMP allowed for these projects?
Response – Approach included in the EMC’s 2008 rule has been maintained to allow for additional flexibility through the use of additional BMPs.
6. The sentence mandating infiltration for all stormwater runoff from the 1-year, 24-hour storm that is contained in Paragraph (b)(2)(C) needs to be revisited and/or clarified / revised.
Response – This issue is linked to #3 above.
7. There are many issues associated with the cost, regulation, enforcement, liability, operation, and maintenance of the Low Impact Development (LID) BMPs that are required for residential development that adds more than 10,000 square feet of new built upon area within ½ mile of shellfishing waters (Paragraph (c)) that need to be addressed.
Response – Language in this paragraph has been modified to change this to a permitting program to address the implementation questions.
8. Paragraphs (d), (e), and (f) need to be reviewed and rewritten by either the Attorney General’s Office or the DENR General Counsel’s Office.
9. What should the effective date of the requirements be?
Response – Paragraph (i) adds a proposed effective date of July 1, 2008. However this is simply a placeholder. Our expectation is that the Legislative Staff will determine an appropriate effective date for this Rule at the end of this process.

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10. References from SL2006-246 (Section 18(5)) concerning the Division memo on “common plans of development or sale” should be referenced here also
Response – Paragraph (h) has been added to include this reference.

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- a. Consider adding the language from Section 9(c)(1) of SL 2006-246 that deals with pockets of high density in low density projects (clustering language).
Response – Language has been added in paragraphs (b)(2)(A)(i) and (b)(3)(A)(i).
- b. Add definition of vegetative conveyance.
Response – Definition has been added in paragraph (a)(4)
- c. Remove the word “discrete” in those instances where it proceeds “stormwater collection systems” in the rule.
Response – “Discrete” has been removed in paragraph (a)(2).
- d. Consider adding language that the provisions of 15A NCAC 2H .1008 do not apply to the BMPs mandated in Paragraphs (c)(1) and (c)(2) of the rule.
Response – Paragraph (c) has been modified to require permits so the provisions of 15A NCAC 2H .1008 will apply.
- e. Should the BMPs mandated in Paragraph (c) for residential development be required to treat the whole 1-year, 24-hour storm, or should they be designed for some smaller quantity of stormwater runoff?
Response – See response to #3 in the “Major Issues” list.
- f. Do the full DWQ Stormwater BMP Manual requirements that are specified for permeable pavement apply to the permeable pavement mandated in Paragraph (c)(1) and (c)(2) for residential development?
Response - Paragraph (c) has been modified to require permits so the provisions of 15A NCAC 2H .1008 will apply.
- g. Add an approved 401 Certification that requires a stormwater management plan to the list of authorizations in Paragraph (d) that can be used to qualify for an exclusion. We also need to clarify that the issuance of a General Construction Stormwater Permit (NCG01) does not qualify for an exclusion.
Response – Language has been added in paragraph (d)(1)(D).
- h. Add language that a complete stormwater application is in the Regional Office prior to the effective date of the rule change will qualify for an exclusion for that project.
Response – Language has been added in paragraph (d)(3) to note that applications prior to the effective date of the rule change will be subject to the previous version of the coastal rules.
- i. Add the language from Paragraph (c)(3) to the redevelopment exclusion in (d)(2).
- j. There are many suggestions as to how to improve the language in the definitions in Paragraph (a), however, because the definitions also apply to other rules and requirements beyond 15A NCAC 2H .1005, there is a strong reluctance on the part of DWQ to make significant changes to these definitions.

List of Outstanding Minor Issues - Continued

- k. Clarify that the rule allows for the transport and treatment of the stormwater runoff off-site.
Response – Language in (b)(2)(C) associated with stormwater management “...within the property boundary” has been deleted.
- l. Add language that states that the provisions of the rule will satisfy the Phase 2 post-construction requirements.
Response – Paragraph (g) has been added to indicate that the provisions of this rule meet the post construction components for and local government that is designated under the phase 2 program (Section 5 of SL 2006-246). Other minimum measures will still have to be met by the local government.
- m. Clarify how the measurement of the buffer distance is done.
Response – The measurement is described in the existing definition of vegetated buffer (paragraph (a)(3)).
- n. Address statutory authority issue for requiring local government implementation.
- o. Clarification of “major” versus “minor” modification.
Response – Minor modification of a state stormwater permit is defined in paragraph (d)(4).
- p. Clarify language associated with “within one half mile of and draining to SA waters.”
Response – The language in the rule approved by the EMC in 2008 did provide clarification to the original rule language.