

How to Transfer An Erosion and Sedimentation Control Plan

NCGS § 113A-54.1. Approval of erosion control plans

(d1) The Department may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection:

(1) The Department may transfer a plan if all of the following conditions are met:

a. The successor-owner of the property submits to the Department a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership.

b. The Department finds all of the following:

1. The plan holder is one of the following:
 - I. A natural person who is deceased.
 - II. A partnership, limited liability corporation, corporation, or any other business association that has been dissolved.
 - III. A person who has been lawfully and finally divested of title to the property on which the permitted activity is occurring or will occur.
 - IV. A person who has sold the property on which the permitted activity is occurring or will occur.
2. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.
3. The successor-owner is the sole claimant of the right to engage in the permitted activity.
4. There will be no substantial change in the permitted activity.

(2) The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.

(3) The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.

(4) Notwithstanding changes to law made after the original issuance of the plan, the Department may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the Commission from requiring a revised plan pursuant to G.S. 113A-54.1(b).

(e) The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. 113A-57(2). The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection shall be in addition to inspections required by G.S. 113A-61.1.

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(f) For land-disturbing activities on a single-family residential lot involving new construction with land disturbance of less than one acre where the builder or developer is the owner of the lot being developed and the person financially responsible for the land-disturbing activity, the financial responsibility for land-disturbing activity on that lot transfers to the new owner upon the builder's or developer's conveyance of the lot to the new owner, recording of the deed in the office of the register of deeds, and notification to the office or local program that approved the erosion control plan. (1989, c. 676, s. 2; 1993 (Reg. Sess., 1994), c. 776, s. 4; 1998-221, s. 1.11(a); 1999-379, s. 1; 2005-386, s. 7.1; 2006-250, s. 1; 2011-394, s. 3; 2012-143, s. 1(f); 2013-121, s. 3; 2021-121, s. 5(a).)