



CHAPTER 143
ARTICLE 21 - WATER AND AIR RESOURCES

N.C.G.S. § 143-215.31.

Supervision over maintenance and operation of dams.

SOURCE	LAST AMENDMENT IN THIS TEXT	RETRIEVED	SOURCE FINGERPRINT
General Statutes of North Carolina, as published by the General Assembly	S.L. 2025-94, s. 19 — twelfth act in the lineage	21 September 2026, 06:40 UTC	00ca56cc57aa50064fb121f0 - 51922de1bd56b13ea86ea4d5 - 488a372b2040a86b

§ 143-215.31(a) The Commission shall have jurisdiction and supervision over the maintenance and operation of dams to safeguard life and property and to satisfy minimum streamflow requirements. The Commission may adopt standards for the maintenance and operation of dams as may be necessary for the purposes of this Part. The Commission may vary the standards applicable to various dams, giving due consideration to the minimum flow requirements of the stream, the type and location of the structure, the hazards to which it may be exposed, and the peril of life and property in the event of failure of a dam to perform its function.

§ 143-215.31(a1) The owner of a dam classified by the Department as a high-hazard dam or an intermediate-hazard dam shall develop an Emergency Action Plan for the dam as provided in this subsection:

- (1) The owner of the dam shall submit a proposed Emergency Action Plan for the dam within 90 days after the dam is classified as a high-hazard dam or an intermediate-hazard dam to the Department and the Department of Public Safety for their review and approval. The Department and the Department of Public Safety shall approve the Emergency Action Plan if they determine that it complies with the requirements of this subsection and will protect public health, safety, and welfare; the environment; and natural resources.
- (2) The Emergency Action Plan shall include, at a minimum, all of the following:

a.A description of potential emergency conditions that could occur at the dam, including security risks.

b.A description of actions to be taken in response to an emergency condition at the dam.

c.Emergency notification procedures to aid in warning and evacuations during an emergency condition at the dam.

d.A downstream inundation map depicting areas affected by a dam failure and sudden release of the impoundment. A downstream inundation map prepared pursuant to this section does not require preparation by a licensed professional engineer or a person under the responsible charge of a licensed professional engineer unless the dam is associated with a coal combustion residuals surface impoundment, as defined by G.S. 130A-309.201.

- (3) The owner of the dam shall update the Emergency Action Plan annually and shall submit it to the Department and the Department of Public Safety for their review and approval within one year of the prior approval.
- (4) The Department shall provide a copy of the Emergency Action Plan to the regional offices of the Department that might respond to an emergency condition at the dam.
- (5) The Department of Public Safety shall provide a copy of the Emergency Action Plan to all local emergency management agencies that might respond to an emergency condition at the dam.

- (6) Information included in an Emergency Action Plan that constitutes sensitive public security information, as provided in G.S. 132-1.7, shall be maintained as confidential information and shall not be subject to disclosure under the Public Records Act. For purposes of this section, "sensitive public security information" includes: (i) Critical Energy Infrastructure Information protected from disclosure under rules adopted by the Federal Energy Regulatory Commission in 18 C.F.R. § 388.112; (ii) Emergency Action Plans or downstream inundation maps for impoundments or dams owned or operated by an electric power supplier, as that term is defined under G.S. 62-126.3; and (iii) Emergency Action Plans or downstream inundation maps for impoundments or dams owned or operated by a unit of local government, as that term is defined under G.S. 159-44. Emergency Action Plans or downstream inundation maps not associated with impoundments or dams regulated by the Federal Energy Regulatory Commission, or owned or operated by a electric power supplier or a unit of local government do not constitute sensitive public security information under this section.

§ 143-215.31(b)

The Department, consistent with rules adopted by the Commission, may impose any condition or requirement in orders and written approvals issued under this Part that is necessary to ensure that stream classifications, water quality standards, and aquatic habitat requirements are met and maintained, including conditions and requirements relating to the release or discharge of designated flows from dams, the location and design of water intakes and outlets, the amount and timing of the withdrawal of water from a reservoir, and the construction of submerged weirs or other devices intended to maintain minimum streamflows.

The Commission shall adopt rules that specify the minimum streamflow in the length of the stream affected.

§ 143-215.31(c)

The minimum streamflow in the length of the stream affected by a dam that is operated by a small power producer, as defined in G.S. 62-3(27a), that diverts water from 4,000 feet or less of the natural streambed and where the water is returned to the same stream shall be:

- (1) The minimum average flow for a period of seven consecutive days that would have an average occurrence of once in 10 years in the absence of the dam, or ten percent (10%) of the average annual flow of the stream in the absence of the dam, whichever is less, if prior to 1 January 1995 the small power producer was either licensed by the Federal Energy Regulatory Commission or held a certificate of public convenience and necessity issued by the North Carolina Utilities Commission.
- (2) The minimum average flow for a period of seven consecutive days that would have an average occurrence of once in 10 years in the absence of the dam, or ten percent (10%) of the average annual flow of the stream in the absence of the dam, whichever is greater, if subdivision (1) of this subsection does not apply.
- (3) To protect the habitat of the Cape Fear Shiner and other aquatic species, 28 cubic feet per second for any dam that diverts water from 2,500 feet or more of the natural streambed of any stream on which six or more dams operated by small power producers were located on 1 January 1995, notwithstanding subdivisions (1) and (2) of this subsection.

§ 143-215.31(d)

Subsection (c) of this section establishes the policy of this State with respect to minimum streamflows in the length of the stream affected by a dam that is operated by a small power producer, as defined in G.S. 62-3(27a), that diverts water from 4,000 feet or less of the natural streambed and where the water is returned to the same stream, whether the dam is subject to or exempt from this Part. In its comments and recommendations to the Federal Energy Regulatory Commission regarding the minimum streamflow in the length of the stream affected by a dam that is operated by a small power producer, as defined in G.S. 62-3(27a), that diverts water from 4,000 feet or less of the natural streambed and where the water is returned to the same stream, the Commission and the Department shall not advocate or recommend a minimum streamflow that exceeds the minimum streamflow that would be required under subsection (c) of this section.

§ 143-215.31(e)

The minimum streamflow in the length of the stream affected by a dam to which subsections (c) and (d) of this section do not apply shall be established as provided in subsection (b) of this section. Subsections (c) and (d) of this section do not apply if the length of the stream affected:

- (1) Receives a discharge of waste from a treatment works for which a permit is required under Part 1 of this Article; or

- (2) Includes any part of a river or stream segment that:
- a.

Is designated as a component of the State Natural and Scenic Rivers System by G.S. 143B-135.152 or G.S. 143B-135.154.
- b.

Is designated as a component of the national Wild and Scenic Rivers System by 16 U.S.C. §1273 and 1274.

END OF SECTION TEXT

APPARATUS FOLLOWS — DERIVED, NOT ENACTED

APPARATUS I
12 ACTS

Amendment lineage

The State prints this history as a single parenthetical at the foot of the section. It is reproduced verbatim in the colophon and unpacked below in order of enactment.

1967

1996

2025

TICK HEIGHT = ACTS IN THAT YEAR DASHED = RECODIFICATION, NOT AMENDMENT

Nº	YEAR	ACT	CHARACTER
01	1967	c. 1068, s. 9	ENACTED
02	1973	c. 1262, s. 23	AMENDED
03	1987	c. 827, s. 154	AMENDED
04	1993	c. 394, s. 6	AMENDED
05	1993	c. 553, s. 80	AMENDED
06	1995	c. 184, s. 1	AMENDED
07	1995	c. 439, s. 1	AMENDED
08	2014	S.L. 2014-122, s. 8(a)	AMENDED
09	2015	S.L. 2015-7, s. 9(a)	AMENDED
10	2015	S.L. 2015-241, s. 14.30(aaa)	AMENDED
11	2017	S.L. 2017-102, s. 21	AMENDED
12	2025	S.L. 2025-94, s. 19	AMENDED

APPARATUS II
7 AUTHORITIES

Authorities referenced

Every G.S. cross-reference appearing in the text of this section, in order of first appearance. Nothing is characterized; the operative language is quoted from the section itself.

REFERENCE	APPEARS IN	OPERATIVE LANGUAGE IN THIS SECTION
G.S. 130A-309.201	(a1)	"residuals surface impoundment, as defined by"
G.S. 132-1.7	(a1)(6)	"public security information, as provided in"
G.S. 62-126.3	(a1)(6)	"as that term is defined under"
G.S. 159-44	(a1)(6)	"as that term is defined under"
G.S. 62-3(27a)	(c)	"small power producer, as defined in"
G.S. 143B-135.152	(e)	"Natural and Scenic Rivers System by"
G.S. 143B-135.154	(e)	"Rivers System by G.S. 143B-135.152 or"

APPARATUS III

Citation

FULL SECTION
N.C. Gen. Stat. § 143-215.31 (2025).

PINPOINT
N.C. Gen. Stat. § 143-215.31(a) (2025).

Pinpoint keys are set in the left margin of the text rather than line numbers: subsection designators are stable across editions and paper sizes, line numbers are not.

COLOPHON

Provenance

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HISTORY PARENTHETICAL, AS PRINTED BY THE STATE
(1967, c. 1068, s. 9; 1973, c. 1262, s. 23; 1987, c. 827, s. 154; 1993, c. 394, s. 6; c. 553, s. 80; 1995, c. 184, s. 1; c. 439, s. 1; 2014-122, s. 8(a); 2015-7, s. 9(a); 2015-241, s. 14.30(aaa); 2017-102, s. 21; 2025-94, s. 19.)

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