

**15A NCAC 02B .0265 JORDAN WATER SUPPLY NUTRIENT STRATEGY: STORMWATER MANAGEMENT FOR NEW DEVELOPMENT**

(See S.L. 2009-216 and S.L. 2009-484)

The following is the stormwater strategy for new development activities within the Jordan watershed, as prefaced in 15A NCAC 02B .0262:

- (1) **PURPOSE.** The purposes of this Rule are as follows:
  - (a) To achieve and maintain the nitrogen and phosphorus loading goals established for Jordan Reservoir in 15A NCAC 02B .0262 from lands in the Jordan watershed on which new development occurs;
  - (b) To provide control for stormwater runoff from new development in Jordan watershed to ensure that the integrity and nutrient processing functions of receiving waters and associated riparian buffers are not compromised by erosive flows; and
  - (c) To protect the water supply uses of Jordan Reservoir and of designated water supplies throughout the Jordan watershed from the potential impacts of new development.
- (2) **APPLICABILITY.** This Rule shall apply to those areas of new development, as defined in 15A NCAC 02B .0263, that lie within the Jordan watershed and the planning jurisdiction of a municipality or county that is identified in 15A NCAC 02B .0262.
- (3) **REQUIREMENTS.** All local governments subject to this Rule shall develop stormwater management programs for submission to and approval by the Commission, to be implemented in areas described in Item (2) of this Rule, based on the standards in this Item:
  - (a) An approved stormwater management plan shall be required for all proposed new development disturbing one acre or more for single family and duplex residential property and recreational facilities, and one-half acre or more for commercial, industrial, institutional, multifamily residential, or local government property. These stormwater plans shall not be approved by the subject local governments unless the following criteria are met:
    - (i) Nitrogen and phosphorus loads contributed by the proposed new development activity in a given subwatershed shall not exceed the unit-area mass loading rates applicable to that subwatershed as follows for nitrogen and phosphorus, respectively, expressed in units of pounds per acre per year: 2.2 and 0.82 in the Upper New Hope; 4.4 and 0.78 in the Lower New Hope; and 3.8 and 1.43 in the Haw. The developer shall determine the need for engineered stormwater controls to meet these loading rate targets by using the loading calculation method called for in Sub-Item (4)(a) or other equivalent method acceptable to the Division.
    - (ii) Proposed new development undertaken by a local government solely as a public road project shall be deemed compliant with the purposes of this Rule if it meets the riparian buffer protection requirements of 15A NCAC 02B .0267 and .0268.
    - (iii) Proposed new development subject to NPDES, water supply, and other state-mandated stormwater regulations shall comply with those regulations in addition to the other requirements of this Sub-Item. Proposed new development in any water supply watershed in the Jordan watershed designated WS-II, WS-III, or WS-IV shall comply with the density-based restrictions, obligations, and requirements for engineered stormwater controls, clustering options, and 10/70 provisions described in Sub-Items (3)(b)(i) and (3)(b)(ii) of the applicable Rule among 15A NCAC 02B .0214 through .0216;
    - (iv) Stormwater systems shall be designed to control and treat the runoff generated from all surfaces by one inch of rainfall. The treatment volume shall be drawn down pursuant to standards specific to each practice as provided in the July 2007 version of the *Stormwater Best Management Practices Manual* published by the Division, or other at least technically equivalent standards acceptable to the Division. To ensure that the integrity and nutrient processing functions of receiving waters and associated riparian buffers are not compromised by erosive flows, stormwater flows from the new development shall not contribute to degradation of waters of the State. At a minimum, the new development shall not result in a net increase in peak flow leaving the site from pre-development conditions for the one-year, 24-hour storm event;

- (v) Proposed new development that would replace or expand structures or improvements that existed as of December 2001, the end of the baseline period, and that would not result in a net increase in built-upon area shall not be required to meet the nutrient loading targets or high-density requirements except to the extent that it shall provide stormwater control at least equal to the previous development. Proposed new development that would replace or expand existing structures or improvements and would result in a net increase in built-upon area shall have the option either to achieve at least the percentage loading reduction goals stated in 15A NCAC 02B .0262 as applied to nitrogen and phosphorus loading from the previous development for the entire project site, or to meet the loading rate targets described in Sub-Item (3)(a)(i). These requirements shall supersede those identified in 15A NCAC 02B .0104(q);
  - (vi) Proposed new development shall comply with the riparian buffer protection requirements of 15A NCAC 02B .0267 and .0268; and
  - (vii) Developers shall have the option of offsetting part of their nitrogen and phosphorus loads by implementing or funding offsite management measures as follows: Before using offsite offset options, a development shall attain a maximum nitrogen loading rate on-site of four pounds per acre per year for single-family, detached and duplex residential development and eight pounds per acre per year for other development, including multi-family residential, commercial and industrial and shall meet any requirements for engineered stormwater controls described in Sub-Item (3)(a)(iii) of this Rule. Offsite offsetting measures shall achieve at least equivalent reductions in nitrogen and phosphorus loading to the remaining reduction needed onsite to comply with the loading rate targets set out in Sub-Item (3)(a)(i) of this Rule. A developer may make offset payments to the NC Ecosystem Enhancement Program contingent upon acceptance of payments by that Program. A developer may use an offset option provided by the local government in which the development activity occurs. A developer may propose other offset measures to the local government, including providing his or her own offsite offset or utilizing a private seller. All offset measures identified in this Sub-Item shall meet the requirements of 15A NCAC 02B .0273 (2) through (4).
- (b) A plan to ensure maintenance of best management practices (BMPs) implemented as a result of the provisions in Sub-Item (3)(a) of this Rule for the life of the development;
  - (c) A plan to ensure enforcement and compliance with the provisions in Sub-Item (3)(a) of this Rule for the life of the new development; and
  - (d) The following requirements in water supply 15A NCAC 02B .0104 shall apply to new development throughout the Jordan watershed:
    - (i) Requirements in Paragraph (f) for local governments to assume ultimate responsibility for operation and maintenance of high-density stormwater controls, to enforce compliance, to collect fees, and other measures;
    - (ii) Variance procedures in Paragraph (r);
    - (iii) Assumption of local programs by the Commission in Paragraph (x); and
    - (iv) Delegation of Commission authorities to the Director in Paragraph (aa).
- (4) **RULE IMPLEMENTATION.** This Rule shall be implemented as follows:
- (a) Within 18 months after the effective date of this Rule, the Division shall submit a model local stormwater program, including a model local ordinance, in conjunction with similar requirements in 15A NCAC 02B .0266, that embodies the criteria described in Item (3) of this Rule to the Commission for approval. The model program shall include a tool that will allow developers to account for nutrient loading from development lands and loading changes due to BMP implementation to meet the requirements of Item (3) of this Rule. The accounting tool shall utilize nutrient efficiencies and associated design criteria established for individual BMPs in the July 2007 version of the *Stormwater Best Management Practices Manual* published by the Division, or other at least technically equivalent standards acceptable to the Division. The Division shall work in cooperation with subject local governments and other watershed interests in developing this model program;

- (b) Within six months after the Commission's approval of the model local stormwater program and model ordinance, subject local governments shall submit stormwater management programs, in conjunction with similar requirements in 15A NCAC 02B .0266, to the Division for preliminary approval. These local programs shall meet or exceed the requirements in Item (3) of this Rule;
  - (c) Within 15 months after the Commission's approval of the model local stormwater program, the Division shall provide recommendations to the Commission on local stormwater programs. The Commission shall either approve the programs or require changes based on the standards set out in Item (3) of this Rule. Should the Commission require changes, the applicable local government shall have two months to submit revisions, and the Division shall provide follow-up recommendations to the Commission within two months after receiving revisions;
  - (d) Within three months after the Commission's approval of a local program, or upon the Division's first renewal of a local government's NPDES stormwater permit, whichever occurs later, the affected local government shall complete adoption of and implement its local stormwater management program; and
  - (e) Upon implementation, subject local governments shall submit annual reports to the Division summarizing their activities in implementing each of the requirements in Item (3) of this Rule, including changes to nutrient loading due to implementation of Sub-Item (3)(a) of this Rule.
- (5) RELATIONSHIP TO OTHER REQUIREMENTS. Local governments shall have the following options with regard to satisfying the requirements of other rules in conjunction with this Rule:
- (a) A local government may in its program submittal under Sub-Item (4)(b) of this Rule request that the Division accept the local government's implementation of another stormwater program or programs, such as NPDES municipal stormwater requirements, as satisfying one or more of the requirements set forth in Item (3) of this Rule. The Division will provide determination on acceptability of any such alternatives prior to requesting Commission approval of local programs as required in Sub-Item (4)(c) of this Rule. The local government shall include in its program submittal technical information demonstrating the adequacy of the alternative requirements.

*History Note:* Authority G.S. 143-214.1; 143-214.5; 143-214.7; 143-214.12; 143-214.21; 143-215.3(a)(1); 143-215.6A; 143-215.6B; 143-215.6C; 143 215.8B; 143B-282(c); 143B-282(d); S.L. 2005-190; S.L. 2006-259;  
*Eff. August 11, 2009;*  
*See S.L. 2009-216 and S.L. 2009-484.*