

1 15A NCAC 02B .0265 is adopted with changes as published in 21:24 NCR 2270-2273 as follows:

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3 **15A NCAC 02B .0265 JORDAN WATER SUPPLY NUTRIENT STRATEGY: STORMWATER**
4 **MANAGEMENT FOR NEW DEVELOPMENT**

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

7 (1) PURPOSE. The purposes of this Rule are as follows:

8 (a) To achieve and maintain the nitrogen and phosphorus loading goals established for
9 Jordan Reservoir in Rule 15A NCAC 02B .0262 from lands in the Jordan watershed on
10 which new development ~~occurs; occurs.~~ New development is development that occurs
11 subsequent to the effective date of, and is subject to, local stormwater management
12 programs established under this Rule;

13 (b) To provide control for stormwater runoff from new development in Jordan watershed to
14 ensure that the integrity and nutrient processing functions of receiving waters and
15 associated riparian buffers are not compromised by erosive flows; and

16 (c) To protect the water supply uses of Jordan Reservoir and of designated water supplies
17 throughout the Jordan watershed from the potential impacts of new development.

18 (2) APPLICABILITY. This Rule shall apply to those areas of new development, as defined in Rule
19 15A NCAC 2B .0263, that lie within the Jordan watershed and the planning jurisdiction of a
20 municipality or county ~~municipalities and counties in the Jordan watershed as that is~~ identified in
21 Rule 15A NCAC 02B .0262.

22 (3) REQUIREMENTS. All local governments subject to this Rule shall develop stormwater
23 management programs for submission to and approval by the ~~Commission~~ Commission, to be
24 implemented in areas described in Item (2) of this Rule, based on the standards in this item:
25 incorporating the following minimum standards:

26 (a) An approved stormwater management plan shall be required for all proposed new
27 development ~~within their jurisdictions~~ disturbing one acre or more for single family and
28 duplex residential property and recreational facilities, and one-half acre or more for
29 commercial, industrial, institutional, ~~or~~ multifamily ~~residential~~ residential, or local
30 government property. These stormwater plans shall not be approved by the subject local
31 governments unless the following criteria are met:

32 (i) Nitrogen and phosphorus loads contributed by the proposed new development
33 activity in a given subwatershed shall not exceed ~~certain the~~ unit-area mass
34 loading ~~rates, rates applicable to that subwatershed as follow for nitrogen and~~
35 phosphorus, respectively. These loading rates shall be calculated as the
36 percentage reduction goals established in Rule 15A NCAC 02B .0262 for the
37 subwatershed or subwatersheds in which the development occurs, applied to

1 ~~area weighted average loading rates of developable lands in the same~~
2 ~~subwatershed or subwatersheds. These area weighted average loading rates~~
3 ~~shall be derived from land use and loading data representative of the baseline~~
4 ~~period defined in Rule 15A NCAC 02B .0262. Initial values for nitrogen and~~
5 ~~phosphorus loading rate targets respectively in each subwatershed shall be the~~
6 ~~following,~~ expressed in units of pounds per acre per year: 2.2 and 0.82 in the
7 Upper New Hope; 4.4 and 0.78 in the Lower New Hope; and 3.8 and 1.43 in the
8 Haw. ~~The Division may adjust these initial values based on improved land use~~
9 ~~and loading data or based on modifications to the strategy reduction goals in~~
10 ~~Section (7) of Rule 15A NCAC 02B .0262.~~ The developer shall determine the
11 need for engineered stormwater controls to meet these loading rate targets by
12 using the loading calculation method called for in Sub-Item (4)(a) or other
13 similar equivalent method acceptable to the Division.

14 (ii) Proposed new development undertaken by a local government solely as a public
15 road project shall be deemed compliant with the purposes of this Rule if it meets
16 the riparian buffer protection requirements of Rules 15A NCAC 02B .0267 and
17 .0268.

18 (ii)(iii) Proposed new development subject to NPDES, water supply, and other state-
19 mandated stormwater regulations shall comply with those regulations in addition
20 to the other requirements of this Sub-Item. Proposed new development in any
21 water supply watershed in the Jordan watershed designated WS-II, WS-III, or
22 WS-IV shall comply with the density-based restrictions, obligations, and
23 requirements for engineered stormwater controls, clustering options, and 10/70
24 provisions described in Sections (3)(b)(i) and (3)(b)(ii) of the applicable Rule
25 among Rules 15A NCAC 02B .0214 through .0216;

26 (iii)(iv) Stormwater systems shall be designed to control and treat the runoff generated
27 from all surfaces by one inch of rainfall. The treatment volume shall be drawn
28 down ~~no faster than 48 hours and no slower than 120 hours.~~ pursuant to
29 standards specific to each practice as provided in the July 2007 version of the
30 Stormwater Best Management Practices Manual published by the Division, or
31 other at least technically equivalent standards acceptable to the Division.
32 Treatment systems shall achieve an 85 percent average annual removal rate for
33 Total Suspended Solids. To ensure that the integrity and nutrient processing
34 functions of receiving waters and associated riparian buffers are not
35 compromised by erosive flows, stormwater flows from the new development
36 shall not contribute to degradation of waters of the State. At a minimum, the

1 new development shall not result in a net increase in peak flow leaving the site
2 from pre-development conditions for the one-year, 24-hour storm event;

3 ~~(iv)~~(v) Proposed new development that would replace or expand structures or
4 improvements that existed as of December 2001, the end of the baseline period,
5 and that would not result in a net increase in built-upon area shall not be
6 required to meet the nutrient loading targets or high-density requirements except
7 to the extent that it shall provide ~~at least equal~~ stormwater control at least equal
8 to the previous development. Proposed new development that would replace or
9 expand existing structures or improvements and would result in a net increase in
10 built-upon area shall have the option ~~to~~ either to achieve at least the percentage
11 loading reduction goals stated in Rule 15A NCAC 02B .0262 as applied to
12 nitrogen and phosphorus loading from the previous development for the entire
13 project site, or to meet the loading rate targets described in Section (3)(a)(i).
14 These requirements shall supersede those identified in Rule 15A NCAC 02B
15 .0104(q);

16 ~~(v)~~(vi) Proposed new development shall comply with the riparian buffer protection
17 requirements of Rules 15A NCAC 02B .0267 and .0268; and

18 ~~(vi)~~(vii) Developers shall have the option of ~~partially~~ offsetting part of their nitrogen and
19 phosphorus loads by implementing or funding offsite management
20 ~~measures-measures as follows: These offsite offsetting measures shall achieve~~
21 ~~at least equivalent reductions in nitrogen and phosphorus loading to the~~
22 ~~remaining reduction needed onsite to comply with Sub-Item (3)(a)(i) of this~~
23 ~~Rule. Before using offsite offset options, a development shall attain a maximum~~
24 nitrogen loading rate on-site of four pounds per acre per year for single-family,
25 detached and duplex residential development and eight pounds per acre per year
26 for other development, including multi-family residential, commercial and
27 industrial and shall meet any requirements for engineered stormwater controls
28 described in Section (3)(a)(iii) of this Rule. ~~Developers~~ Offsite offsetting
29 measures shall achieve at least equivalent reductions in nitrogen and phosphorus
30 loading to the remaining reduction needed onsite to comply with the loading rate
31 targets set out in Sub-Item (3)(a)(i) of this Rule. A developer may utilize the
32 ~~offset option provided in Rule 15A NCAC 02B .0240 for this purpose,~~
33 ~~contingent upon acceptance of their offset proposals by the NC Ecosystem~~
34 ~~Enhancement Program.~~ make offset payments to the NC Ecosystem
35 Enhancement Program contingent upon acceptance of payments by that
36 Program. Alternatively, developers A developer may use an offset option
37 provided by the local government in which the development activity

~~occurs, occurs, provided that the local government has received prior approval from the Division for the offsetting activity pursuant to Rule 15A NCAC 02B .0269. 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 Rule 15A NCAC 02B .0273 (2) through (4). Before using off site offset options, the development shall meet any requirements for engineered stormwater controls described in Section (3)(a)(ii) of this Rule and under NPDES Phase II regulations, and shall attain a maximum nitrogen loading rate of four pounds/acre/year for single family, detached and duplex residential development and 8 pounds/acre/year for other development, including multi family residential, commercial and industrial.~~

- (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 Items~~ Sub-Item (3)(a) of this Rule for the life of the new development; and
- (d) The following requirements in water supply Rule 15A NCAC 02B .0104 shall apply to new development throughout the Jordan watershed:
 - (i) Requirements in Section (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 Section (r);
 - (iii) Assumption of local programs by the Commission in Section (x); and
 - (iv) Delegation of Commission authorities to the Director in Section ~~(aa); and~~ (aa).
 - (v) ~~Other development related requirements in Rule 15A NCAC 02B .0104, unless expressly modified by requirements in this Rule, shall also apply throughout Jordan watershed.~~

(4) RULE IMPLEMENTATION. This Rule shall be implemented as follows:

- (a) Within ~~12-18~~ 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 Rule 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

1 Division, or other at least technically equivalent standards acceptable to the Division.

2 The Division shall work in cooperation with subject local governments and other
3 watershed interests in developing this model program;

4 (b) Within six months after the Commission's approval of the model local stormwater
5 ~~program, program and model ordinance,~~ subject local governments shall submit
6 stormwater management programs, in conjunction with similar requirements in Rule 15A
7 NCAC 02B .0266, to the Division for preliminary approval. These local programs shall
8 meet or exceed the requirements in Item (3) of this ~~Rule; Rule and minimum criteria~~
9 ~~established in the model;~~

10 (c) Within 15 months after the Commission's approval of the model local stormwater
11 program, the Division shall ~~request the Commission's approval of the local stormwater~~
12 ~~management programs;~~ provide recommendations to the Commission on local
13 stormwater programs. The Commission shall either approve the programs or require
14 changes based on the standards set out in Item (3) of this Rule. Should the Commission
15 require changes, the applicable local government shall have two months to submit
16 revisions, and the Division shall provide follow-up recommendations to the Commission
17 within two months after receiving revisions;

18 (d) Within ~~18 months after the Commission's approval of the model local stormwater~~
19 ~~program,~~ three months after the Commission's approval of a local program, or upon the
20 Division's first renewal of a local government's National Pollutant Discharge Elimination
21 System (NPDES)NPDES stormwater permit, whichever occurs later, subject the affected
22 local ~~governments~~government shall complete adoption of and implement ~~their~~ its local
23 stormwater management ~~programs;~~program; and

24 (e) Upon implementation, subject local governments shall submit annual reports to the
25 Division summarizing their activities in implementing each of the requirements in Item
26 (3) of this Rule, including changes to nutrient loading due to implementation of Sub-Item
27 (3)(a) of this Rule.

28 (5) RELATIONSHIP TO OTHER REQUIREMENTS. Local governments shall have the following
29 options with regard to satisfying the requirements of other rules in conjunction with this Rule:

30 (a) A local government may in its program submittal under Sub-Item (4)(b) of this Rule
31 request that the Division accept the local government's implementation of another
32 stormwater program or programs, such as NPDES municipal stormwater requirements, as
33 satisfying one or more of the requirements set forth in Item (3) of this Rule. The Division
34 will provide determination on acceptability of any such alternatives prior to requesting
35 Commission approval of local programs as required in Sub-Item (4)(c) of this Rule. The
36 local government shall include in its program submittal technical information
37 demonstrating the adequacy of the alternative requirements. ~~Where requirements of this~~

1 ~~Rule exceed those in an NPDES permit, a local government shall meet the requirements~~
2 ~~of this Rule upon the first renewal of its NPDES permit.~~

3 ~~(b)Local governments that are required to reduce nutrient loading from existing development~~
4 ~~under Rule 15A NCAC 02B .0266 may require new development to achieve load reductions in~~
5 ~~excess of those required to meet the unit area mass loading rate targets described in this Rule and~~
6 ~~credit the additional reductions toward the loading goals for existing developed areas.~~

7
8 *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-
9 215.6A; 143-215.6B; 143-215.6C; ~~143-282(d); 143-215.8B(b);~~143-215.8B; 143B-282(c); 143B-
10 282(d); S.L. 2005-190; S.L. 2006-259;
11 *Eff. July 1, 2008.*