



# STREAMLINES

A Newsletter for North Carolina Water Supply Watershed Administrators

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## Welcome to Streamlines!

*Streamlines* is a newsletter for water supply watershed protection administrators, local planners, state officials and others involved in the N.C. Water Supply Watershed Protection Program. The first six monthly issues are a joint effort of the N.C. Division of Environmental Management (DEM) and the Land-of-Sky Regional Council, and are funded by a Section 205 (j) Clean Water Act grant from the U.S. EPA through NC DEM. After the sixth issue, the newsletter will likely continue under the guidance of the DEM's Water Supply Watershed Protection Local Government Assistance Group.

This first issue of *Streamlines* explains the recent (1995) amendments to the state rules. Future issues will address new alternatives to wet detention ponds, state responsibilities under the Act, site planning techniques for watershed protection, local administrative issues, and other topics.

We hope you will find *Streamlines* informative and useful. We encourage your comments and suggestions for improving *Streamlines* to satisfy your information needs.

## New Water Supply Watershed Rules in 1995

The North Carolina [Water Supply Watershed Protection Rules](#), in effect since 1992, require all local governments having land use jurisdiction within surface water supply watersheds to adopt and implement water supply watershed protection ordinances, maps, and a management plan. The Water Supply Watershed Protection Act affects approximately 260 local governments across North Carolina and has a 100 percent compliance rate for adoption and submittal of the water supply watershed protection ordinances.

Over the past two years, the Division of Environmental Management has worked very closely with local governments to assist in the implementation of the required local programs. Division staff have met individually with local government officials and have conducted numerous public information sessions and workshops across the state. During this exchange, many local governments expressed the need for more flexibility in the administration of the Water Supply Watershed Protection Program. DEM responded to these concerns by proposing and bringing to public hearing amendments to the Water Supply Watershed Protection Rules that allow more flexibility in the local government watershed protection regulatory process.

The rule amendments, which became effective on August 1, 1995, provide flexibility and clarify the requirements that local governments must follow. The amended rules do not add more stringent requirements; rather, they are intended to give local governments more flexibility in implementing the program. Local governments are not required to make the proposed changes to the rules effective in their local ordinances. Any changes to the local government ordinances are optional and entirely voluntary on the part of the local government.

A summary of the adopted changes follows:

### Section .0101

## GENERAL PROCEDURES

**Class WS-I.** Clarifies the requirement for public ownership. DEM staff has maintained that a criterion for Class [WS-I](#) waters is their location within watersheds held in public ownership. The Rules only state that Class WS-I waters are essentially in natural and undeveloped watersheds. The clarification includes an additional requirement for the land area in the watershed to be in public ownership.

**Class WS-V.** Clarifies that the [WS-V](#) classification may be applicable for watersheds used by industries to supply their employees but not applicable where an industry supplies raw drinking water to a municipality or county. The Environmental Management Commission (EMC) may consider a more protective water supply classification at the request of the affected local governments. Language was also added to be consistent with existing criteria in description of the WS-V class that allows this water supply classification to be applied to formerly-used water supply watersheds.

**Future Water Supplies (FWS).** Establishes a new supplemental classification to address watersheds that will be used as a drinking water supply source in the future. The appropriate management requirements associated with the primary water supply classification (e.g. WS-III) for activities administered by the state such as the issuance of permits for landfills, NPDES wastewater discharges, land application of residuals and road construction activities, will be effective upon reclassification to FWS. However, implementation of local government land use management requirements will not be required until 270 days after the EMC has modified the FWS supplemental classification (e.g. removed the FWS supplemental classification) through the rule-making process and notified the affected local government(s).

### Section .0104

## IMPLEMENTATION

**Statewide minimum requirements.** Clarifies the existing authority of the Environmental Management Commission as allowed by statute. The EMC may approve local water supply programs that it determines provide protection equal to or greater than the state's minimum requirements.

**Effective date and management plans.** Clarifies the effective date for implementation of the Water Supply Watershed Protection Rules for state administered activities. This provision states that the rules were applicable to state-administrated activities on August 3, 1992, regardless of the deadlines for municipal and county implementation. Further clarification also requires DEM to revise the [Model Ordinance](#) and distribute it when the Rules are changed. The requirement that local governments submit management plans was deleted.

**Alternative stormwater controls.** Expands section which references 15A NCAC 2H .1003 (stormwater rule) and includes language regarding alternative stormwater control systems. (Note: See also [Streamlines Vol. 1 No. 2, March 1996](#))

**Maps.** Expands requirements for the 1:24,000 map submission to include the specific information (corporate and extraterritorial jurisdiction boundaries and the actual and interpreted watershed boundaries) that must be included on each map.

**Animal operations.** Deletes requirement for animal operations greater than 100 animal units to employ [BMPs](#). It is now a statewide requirement and thus not necessary in the Water Supply Watershed Protection Rules. Added the provision that animal operations that are deemed permitted under the animal waste rules are allowed in all water supply watersheds.

**Nonconforming lots.** Clarifies that existing nonconforming lots not contiguous to another lot are exempt from the Rules if they are developed for single family residential purposes. Also clarifies that a lot created as part of a family subdivision is exempt from the land division regulations of the Rules if it is created for single family development purposes and if it is exempt from local subdivision regulations. A deeded single family lot would be exempt for

subsequent owners of the affected property.

**Variations and more protective local programs.** Divides the existing development provisions such that exemptions are discussed in a separate paragraph. The amended Rules refer to all exemptions as variances. Previously, the terms exemption and variance within the context of the watershed protection rules were interchangeable. Variance is a more commonly used term in land use regulations, thus the language was changed accordingly. The amended Rules require that a report of all variances granted by local governments be submitted to DEM by January 1st of each year covering the previous calendar year's activities. The previous Rules required this submission on an annual basis but did not specify a submittal date. The specific procedures that local governments must follow in granting minor variances and in submitting major variances to the EMC for approval are delineated in this section, as well as the procedures for appeal from a local government decision on a minor variance request and an EMC decision on a major variance request. Language was added to state that variances from local ordinances that are more stringent than the state's minimum requirements are not considered as major variances as long as the variance does not exceed the state's minimum criteria.

**Cluster development.** [Cluster development](#) is an option under the Rules. This provision also applies to planned unit development and mixed use development. Clarification was added for siting of built-upon areas, minimizing impact to the receiving waters, use of vegetated conveyances, and requirements for projects using the low density option.

**Tracking built-upon area.** Adds flexibility for local governments using [density calculations](#) to track high density residential development. Requires a safety factor to be added in calculating the design volume of the engineered stormwater control structure to accommodate stormwater flow from any additional impervious surface area that may be constructed.

**Watershed development.** New provision allows local governments to administer the local water supply protection program on a watershed basis rather than on a project-by-project basis as long as the local government can demonstrate the ability to equitably distribute the development potential.

**Stormwater controls affecting wetlands.** Reminder that other agencies (i.e.: the US Army Corps of Engineers) and regulations need to be consulted before engineered management systems can be constructed that may impact existing waters or wetlands. For more information on wetlands, refer to [Streamlines Vol. 1 No. 8, December 1996](#).

**Delegation.** The EMC may delegate such matters as assessment of civil penalties, variance approval, and extension of deadlines for submission of corrected ordinances to the Director of DEHNR.

## Section .0202

### DEFINITIONS

The following definitions were added or modified to clarify their intent in the rules:

- (12) [Built-upon area](#)
- (15) [Cluster development](#)
- (21) Director
- (26) Existing development
- new (28) Family subdivision
- old (28) Hazardous materials
- (36 & 37) Major and minor variance
- (40) Nonconforming lot of record
- (47) [Protected area](#)
- old (52), new (49) Sludge

- (53) Stormwater collection systems

## Section .0211 STANDARDS

In addition to the specific changes noted below, the entire section was renumbered such that each water supply classification (e.g. WS-I, II, III, IV, and V) is in a separate section.

## Section .0213 CLASS WS-I WATERS

**Public ownership.** Adds the provision regarding public ownership as explained under Section .0101.

## Section .0214 CLASS WS-II WATERS

## Section .0215 CLASS WS-III WATERS

## Section .0216 CLASS WS-IV WATERS

**Reclassifications.** Clarifies language that establishes a reclassification procedure for obtaining a more protective classification for existing water supplies.

**Low density development.** Clarifies that lot sizes may be configured using square footage (e.g. 40,000 square feet, as long as roadway right-of-way is excluded) or an acre when calculating density.

**Watershed development.** Deletes provision that requires new development to comply with development density on a project-by-project basis. See .0104(v).

**Cluster development.** Clarifies requirements for [cluster development](#).

**5%/70% provision.** Changes the 5%-70% provision to 10%-70%. The amendment allows the [10/70 Provision](#) to be used for new residential and non-residential development and expansions to existing development. Local governments within WS-II, III or IV watersheds are allowed to transfer land area available for development under this provision to another local government within the same watershed upon approval from the EMC. Allows public lands to be counted in calculating acreage available under this provision. The 10%/70% provision is allowed in WS-IV watersheds for new residential and non-residential development and expansions to existing development only if the local government does not use the high density development option.

**Structures in buffer.** Allows structures in [buffer](#) areas such as flag poles, signs, and security lights which do not significantly contribute to stormwater runoff.

**Hazardous materials.** Deletes requirement for a hazardous material and spill containment plan due to duplication of effort by other state agencies.

**Discharging landfills.** Reworded for easier administration; requirements are unchanged.

**Spill containment.** Deletes requirement for new industrial development located in the critical area that uses, stores, or manufactures hazardous materials to incorporate spill containment structures.

**Sludge.** Deletes 'sludge' from sludge/residual term.

## Section .0218 CLASS WS-V WATERS

**Industry use and reclassification.** Same as amendment in Section .0101

Section .0301

**CLASSIFICATIONS: GENERAL**

**WS-I, WS-V, and FWS.** Same as amendments in Section .0101

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