

15A NCAC 02B .0235 NEUSE RIVER BASIN-NUTRIENT SENSITIVE WATERS MANAGEMENT STRATEGY: BASINWIDE STORMWATER REQUIREMENTS

The following is the urban stormwater management strategy for the Neuse River Basin:

- (1) The following local governments are designated, based on population and other factors, as parties responsible for implementing stormwater management requirements as part of the Neuse River Nutrient Sensitive Waters stormwater management strategy:
 - (a) Cary,
 - (b) Durham,
 - (c) Garner,
 - (d) Goldsboro,
 - (e) Havelock,
 - (f) Kinston,
 - (g) New Bern,
 - (h) Raleigh,
 - (i) Smithfield,
 - (j) Wilson,
 - (k) Durham County,
 - (l) Johnston County,
 - (m) Orange County,
 - (n) Wake County, and
 - (o) Wayne County.
- (2) Other incorporated areas and other counties, not listed under Item (1) of this Rule, may seek to implement their own local stormwater management plan by complying with the requirements specified in Items (5) and (6) of this Rule.
- (3) The Environmental Management Commission may designate additional local governments by amending this Rule based on their potential to contribute significant nutrient loads to the Neuse River. At a minimum, the Commission shall review the need for additional designations to the stormwater management program as part of the basinwide planning process for the Neuse River Basin. Any local governments that are designated at a later date under the Neuse Nutrient Sensitive Waters Stormwater Program shall meet the requirements under Items (5) and (6) of this Rule.
- (4) Local stormwater programs shall address nitrogen reductions for both existing and new development and include the following elements:
 - (a) Review and approval of stormwater management plans for new developments to ensure that:
 - (i) the nitrogen load contributed by new development activities is held at 70 percent of the average nitrogen load contributed by the 1995 land uses of the non-urban areas of the Neuse River Basin. The local governments shall use a nitrogen export standard of 3.6 pounds/acre/year, determined by the Environmental Management Commission as 70 percent of the average collective nitrogen load for the 1995 non-urban land uses in the basin above New Bern. The EMC may periodically update the design standard based on the availability of new scientific information. Developers shall have the option of offsetting part of their nitrogen load by funding offsite management measures by making payment to the NC Ecosystem Enhancement Program or to another seller of offset credits approved by the Division or may implement other offset measures contingent upon approval by the Division. Offset payments shall meet the requirements of Rule .0240 of this Section, which establishes procedural requirements for nutrient offset payments. However, before using offset payments, the development must attain, at a minimum, a nitrogen export that does not exceed 6 pounds/acre/year for residential development and 10 pounds/acre/year for commercial or industrial development;
 - (ii) For the following local governments and any additional local governments identified in rule by the Commission, the post-construction requirements of 15 NCAC 02B .0277 shall supersede the requirements in this Sub-item for areas within their jurisdiction within the watershed of the Falls of the Neuse Reservoir: Durham, Raleigh, Durham County, Orange County, and Wake County; and

- (iii) there is no net increase in peak flow leaving the site from the predevelopment conditions for the 1-year, 24-hour storm.
 - (b) Review of new development plans for compliance with requirements for protecting and maintaining existing riparian areas as specified in 15A NCAC 02B .0233;
 - (c) Implementation of public education programs;
 - (d) Identification and removal of illegal discharges;
 - (e) Identification of suitable locations for potential stormwater retrofits (such as riparian areas) that could be funded by various sources; and
 - (f) Submittal of an annual report on October 30 to the Division documenting progress on and net changes to nitrogen load from the local government's planning jurisdiction.
- (5) Local governments shall implement stormwater management programs according to their plans approved by the Commission as of March 2001. Local governments administering a stormwater management program shall submit annual reports to the Division documenting their progress and net changes to nitrogen load by October 30 of each year.
- (6) If a local government fails to properly implement an approved plan, then stormwater management requirements for existing and new urban areas within its jurisdiction shall be administered through the NPDES municipal stormwater permitting program per 15A NCAC 02H .0126:
- (a) Subject local governments shall develop and implement comprehensive stormwater management programs, tailored toward nitrogen reduction, for both existing and new development.
 - (b) These stormwater management programs shall provide all components that are required of local government stormwater programs in Sub-items (4)(a) through (f) of this Rule.
 - (c) Local governments that are subject to an NPDES permit shall be covered by the permit for at least one permitting cycle (five years) before they are eligible to submit a local stormwater management program for consideration and approval by the EMC.

History Note: Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a)(1); S.L. 1995, c. 572; Eff. August 1, 1998; Amended Eff. January 15, 2011 (this permanent rule replaces the temporary rule approved by the RRC on December 16, 2010).