15A NCAC 02H .0152 is proposed for amendment as follows:

15A NCAC 02H .0152 DEVELOPMENT IN URBANIZING AREAS

(a) Development in Unincorporated Areas of Counties.

(1) Development that cumulatively disturbs one acre or more of land located in the unincorporated area of a county shall comply with the standards set forth in Rule 02H .0154 of this Section beginning 1 July 2007 if the development is located in:

(A) An area that is designated as an urbanized area under the most recent federal decennial census.

(B) The unincorporated area of a county outside of a municipality designated as an urbanized area under the most recent federal decennial census that extends:

(i) One mile beyond the corporate limits of a municipality with a population of less than 10,000 individuals;

(ii) Two miles beyond the corporate limits of a municipality with a population of 10,000 or more individuals but less than 25,000 individuals; and

(iii) Three miles beyond the corporate limits of a municipality with a population of 25,000 or more individuals.

(C) An area delineated pursuant to Item (2) of this Paragraph.

(D) A county that contains an area that is designated as an urbanized area under the most recent federal decennial census in which the unduplicated sum of: (i) the area that is designated as an urbanized area under the most recent federal decennial census; (ii) the area described in Subparagraph (1)(B) of this Paragraph; (iii) the area delineated pursuant to Item (2) of this Paragraph; (iv) the jurisdiction of a regulated entity designated pursuant to Rule 02H .0151(a) of this Section; (v) the area that is regulated by a Phase II National Pollutant Discharge Elimination System (NPDES) permit for stormwater management required pursuant to Rule 02H .0151(b) of this Section; and (vi) areas in the county that are subject to any of the stormwater management programs administered by the Division equal or exceed 75 percent of the total geographic area of the county. For purposes of this Paragraph, the stormwater programs administered by the Division are:

(i) Water Supply Watershed I (WS-I) – 15A NCAC 02B .0212;

(ii) Water Supply Watershed II (WS-II) – 15A NCAC 02B .0214;

(iii) Water Supply Watershed III (WS-III) – 15A NCAC 02B .0215;

(iv) Water Supply Watershed IV (WS-IV) – 15A NCAC 02B .0216;

(v) High Quality Waters (HQW) – 15A NCAC 02H .1006;

(vi) Outstanding Resource Waters (ORW) – 15A NCAC 02H .1007;

(vii) The Coastal Stormwater Program – 15A NCAC 02H .1005;

(viii) The Neuse River Basin Nutrient Sensitive Waters (NSW) Management Strategy – 15A NCAC 02B .0235;

(ix) The Tar-Pamlico River Basin Nutrient Sensitive (NSW) Management Strategy – 15A NCAC 02B .0258;

(x) The Randleman Lake Water Supply Watershed Nutrient Management Strategy – 15A NCAC 02B .0251; and

(xi) Other Environmental Management Commission Nutrient Sensitive Waters (NSW) Classifications – 15A NCAC 02B .0223.

(E) ~~A~~ Subject to Subparagraph (4) of this Paragraph, a county that contains an area that is designated as an urbanized area under the 1990 or 2000 federal decennial census and that has an actual population growth rate that exceeded the State population growth rate for the period 1995 through 2004.

(2) Delineation Process. The Commission shall delineate regulated coverage areas as provided in Subparagraphs (2)(A) through (F) below:

(A) Schedule. The Commission shall implement the delineation process in accordance with the schedule for review and revision of basinwide water quality management plans as provided in G.S. 143-215.8B(c).

(B) Potential candidate coverage areas. A potential candidate coverage area is the unincorporated area of a county that is outside a municipality designated as a regulated entity pursuant to Rule 02H .0151(a) of this Section that:

(i) Extends one mile beyond the corporate limits of a municipality with a population of less than 10,000 individuals;

(ii) Extends two miles beyond the corporate limits of a municipality with a population of 10,000 or more individuals but less than 25,000 individuals; and

(iii) Extends three miles beyond the corporate limits of a municipality with a population of 25,000 or more individuals.

(C) Identification of candidate coverage areas. The Commission shall identify an area within a potential candidate coverage area described in Subparagraph (2)(B)(ii) of this Paragraph as a candidate coverage area if the discharge of stormwater within or from the unincorporated area has the potential to adversely impact water quality. An adverse impact on water quality includes any activity that violates water quality standards, including, but not limited to, any activity that impairs designated uses or that has a significant biological or habitat impact.

(D) Notice and comment on candidacy. The Commission shall notify each public entity that is located in whole or in part in a candidate coverage area. After notification of each public entity, the Commission shall publish a map of the unincorporated areas within the river basin that have been identified as candidates for delineation as regulated coverage areas. The

Commission shall accept public comment on the proposed delineation of a candidate coverage area as a regulated coverage area for a period of not less than 30 days.

(E) Delineation of regulated coverage areas. After review of public comment, the Commission shall delineate regulated coverage areas. The Commission shall delineate a candidate coverage area as a regulated coverage area only if the Commission determines that the discharge of stormwater within or from the candidate coverage area either:

(i) Adversely impacts water quality; or

(ii) Results in a significant contribution of pollutants to sensitive receiving waters, taking into account the effectiveness of other applicable water quality protection programs. To determine the effectiveness of other applicable water quality protection programs, the Commission shall consider the water quality of the receiving waters and whether the waters support the uses set out in Paragraphs (c), (d), and (e) of 15A NCAC 2B .0101 (Procedures for Assignment of Water Quality Standards – General Procedures) and the specific classification of the waters set out in 15A NCAC 02B .0300, et seq. (Assignment of Stream Classifications).

(F) Notice of delineation. The Commission shall provide written notice to each public entity that is located in whole or in part in a candidate coverage area of its delineation determination. The notice shall state the basis for the determination.

(3) Except as provided in this Paragraph and 15A NCAC 02H .1016(d), the Commission shall administer and enforce the standards for development in the regulated coverage areas. To the extent authorized by law, where the development is located in a municipal planning jurisdiction, the municipality shall administer and enforce the standards. A public entity may request that the Commission delegate administration and enforcement of the stormwater management program to the public entity as provided in 15A NCAC 02H .1016(d).

(4) A county that contains an area that is designated as an urbanized area under the 1990 or 2000 federal decennial census and that has an actual population growth rate that exceeded the State population growth rate for the period 1995 through 2004 is not a county under Subparagraph (1)(E) of this Paragraph and is not a county that is subject under this section to the requirements for development in the unincorporated areas of the county when that actual population growth rate occurred in an area within the county that consists of less than five percent (5%) of the total land area of the county.

(b) Development in Non-Phase II Incorporated Areas in Certain Counties. Development that cumulatively disturbs one acre or more of land located in the incorporated areas of a county described in Subparagraphs (1)(D) and (E) of Paragraph (a), that are not designated as an urbanized area under the most recent federal decennial census, shall comply with the standards set forth in Rule 02H .0151(a) of this Section of this act beginning 1 July 2007. The Commission shall administer and enforce the standards for development unless the public entity requests that the Commission delegate administration and enforcement of the stormwater management program to the public entity as provided in 15A NCAC 02H .1016(d).

History Note: *Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a)(1); S.L. 2011-220; Eff. July 3, 2012.*
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