

**15A NCAC 02B .0258 TAR-PAMLICO RIVER BASIN-NUTRIENT SENSITIVE WATERS
MANAGEMENT STRATEGY: BASINWIDE STORMWATER REQUIREMENTS**

(a) **PURPOSE.** The purposes of this Rule are as follows.

- (1) To achieve and maintain a reduction in nitrogen loading to the Pamlico estuary from lands in the Tar-Pamlico River Basin on which new development occurs. The goal of this Rule is to achieve a 30 percent reduction relative to pre-development levels;
- (2) To limit phosphorus loading from these lands to the estuary. The goal of this Rule is to limit phosphorus loading to pre-development levels;
- (3) To provide control for peak stormwater flows from new development lands to ensure that the nutrient processing functions of existing riparian buffers and streams are not compromised by channel erosion; and
- (4) To minimize, to the greatest extent practicable, nitrogen and phosphorus loading to the estuary from existing developed areas in the basin.

(b) **APPLICABILITY.** This Rule shall apply to local governments in the Tar-Pamlico basin according to the following criteria.

- (1) This Rule shall apply to the following municipal areas:
 - (A) Greenville
 - (B) Henderson
 - (C) Oxford
 - (D) Rocky Mount
 - (E) Tarboro
 - (F) Washington
- (2) This Rule shall apply to the following counties:
 - (A) Beaufort
 - (B) Edgecombe
 - (C) Franklin
 - (D) Nash
 - (E) Pitt
- (3) The Environmental Management Commission may designate additional local governments as subject to this Rule by amending this Rule based on the potential of those jurisdictions to contribute significant nutrient loads to the Tar-Pamlico River. At a minimum, the Commission shall review the need for additional designations as part of the Basinwide process for the Tar-Pamlico River Basin. The Commission shall consider, at a minimum, the following criteria related to local governments: population within the basin, population density, past and projected growth rates, proximity to the estuary, and the designation status of municipalities within candidate counties.

(c) **REQUIREMENTS.** All local governments subject to this Rule shall develop stormwater management programs for submission to and approval by the Commission according to the following minimum standards:

- (1) A requirement that developers submit a stormwater management plan for all new developments proposed within their jurisdictions. These stormwater plans shall not be approved by the subject local governments unless the following criteria are met:
 - (A) The nitrogen load contributed by the proposed new development activity shall not exceed 70 percent of the average nitrogen load contributed by the non-urban areas in the Tar-Pamlico River basin based on land use data and nitrogen export research data. Based on 1995 land use data and available research, the nitrogen load value shall be 4.0 pounds per acre per year;
 - (B) The phosphorus load contributed by the proposed new development activity shall not exceed the average phosphorus load contributed by the non-urban areas in the Tar-Pamlico River basin based on land use data and phosphorus export research data. Based on 1995 land use data and available research, the phosphorus load value shall be 0.4 pounds per acre per year;
 - (C) The new development shall not cause erosion of surface water conveyances. 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 1-year, 24-hour storm event; and
 - (D) Developers shall have the option of partially offsetting their nitrogen and phosphorus loads by providing treatment of off-site developed areas. The off-site area must drain to the same classified surface water, as defined in the Schedule of Classifications, 15A NCAC 2B .0316, that the development site drains to most directly. The developer must provide legal

assurance of the dedicated use of the off-site area for the purposes described here, including achievement of specified nutrient load reductions and provision for regular operation and maintenance activities, in perpetuity. The legal assurance shall include an instrument, such as a conservation easement, that maintains this restriction upon change of ownership or modification of the off-site property. Before using off-site treatment, the new development must attain a maximum nitrogen export of six pounds/acre/year for residential development and 10 pounds/acre/year for commercial or industrial development.

- (2) A public education program to inform citizens of how to reduce nutrient pollution and to inform developers about the nutrient and flow control requirements set forth in Part (c)(1).
- (3) A mapping program that includes major components of the municipal separate storm sewer system, waters of the State, land use types, and location of sanitary sewers.
- (4) A program to identify and remove illegal discharges.
- (5) A program to identify and prioritize opportunities to achieve nutrient reductions from existing developed areas.
- (6) A program to ensure maintenance of BMPs implemented as a result of the provisions in Subparagraphs (c)(1) and (c)(5).
- (7) A program to ensure enforcement and compliance with the provisions in Subparagraph (c)(1).
- (8) Local governments may include regional or jurisdiction-wide strategies within their stormwater programs as alternative means of achieving partial nutrient removal or flow control. At a minimum, such strategies shall include demonstration that any proposed measures will not contribute to degradation of surface water quality, degradation of aquatic or wetland habitat or biota, or destabilization of conveyance structure of involved surface waters. Such local governments shall also be responsible for including appropriate supporting information to quantify nutrient and flow reductions provided by these measures and describing the administrative process for implementing such strategies.

(d) **TIMEFRAME FOR IMPLEMENTATION.** The timeframe for implementing the stormwater management program shall be as follows:

- (1) Within 12 months of the effective date of this Rule, the Division shall submit a model local stormwater program that embodies the minimum criteria described in Paragraph (c) of this Rule to the Commission for approval. The Division shall work in cooperation with subject local governments in developing this model program.
- (2) Within 12 months of the Commission's approval of the model local stormwater program or within 12 months of a local government's later designation pursuant to Subparagraph (b)(3), subject local governments shall submit their local stormwater management programs to the Commission for review and approval. These local programs shall meet or exceed the requirements in Paragraph (c) of this Rule.
- (3) Within 18 months of the Commission's approval of the model local stormwater program or within 18 months of a local government's later designation pursuant to Subparagraph (b)(3), subject local governments shall adopt and implement their approved local stormwater management program.
- (4) 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.

(e) **COMPLIANCE.** A local government that fails to submit an acceptable local stormwater management program within the timeframe established in this Rule or fails to implement an approved program shall be in violation of this Rule. In this case, the stormwater management requirements for its jurisdiction shall be administered through the NPDES municipal stormwater permitting program per 15A NCAC 2H .0126. Any local government that is subject to an NPDES municipal stormwater permit pursuant to this Rule shall:

- (1) Develop and implement comprehensive stormwater management program to reduce nutrients from both existing and new development. This stormwater management program shall meet the requirements of Paragraph (c) of this Rule for new and existing development.
- (2) Be subject to the NPDES permit for at least one permitting cycle (five years) before it is eligible to submit a local stormwater management program to the Commission for consideration and approval.

History Note: Authority G.S. 143-214.1; 143-214.7; 143-215.3(a)(1); 143-215.6A; 143-215.6B; 143-215.6C; 143-282(d); Eff. April 1, 2001.

