

15A NCAC 02H .1016 DEVELOPMENT IN URBANIZING AREAS: APPLICABILITY AND DELINEATION

(a) Development in Unincorporated Areas of Counties.

- (1) Development that cumulatively disturbs one acre or more of land, including development that disturbs less than one acre of land that is part of a larger common plan of development or sale, that is located in the unincorporated area of a county shall comply with the standards set forth in Rule.1017 of this Section beginning 1 July 2007 if the development is located in any of the following:
 - (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 which is herein incorporated by reference, including subsequent amendments and editions, and may be accessed at no cost at: <https://www.census.gov/programs-surveys/decennial-census/data.html> 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; or
 - (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 Subparagraph (3) 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 the following equal or exceed 75 percent of the total geographic area of the county:
 - (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 Paragraph (a) of Rule .0151(a) of this Subchapter;
 - (v) the area that is regulated by a NPDES MS4 permit for stormwater management required pursuant to 15A NCAC 02H .0151(b); and
 - (vi) areas in the county that are subject to any of the stormwater management programs administered by the Division; or
 - (E) 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, unless that actual population growth rate occurred in an area within the county that consists of less than five percent of the total land area of the county.
- (2) For purposes of this Paragraph, the stormwater programs administered by the Division shall be as follows:
 - (A) Water Supply Watershed I (WS-I) – 15A NCAC 02B .0212;
 - (B) Water Supply Watershed II (WS-II) – 15A NCAC 02B .0214;
 - (C) Water Supply Watershed III (WS-III) – 15A NCAC 02B .0215;
 - (D) Water Supply Watershed IV (WS-IV) – 15A NCAC 02B .0216;
 - (E) High Quality Waters (HQW) in Non-Coastal Counties – 15A NCAC 02H .1021;
 - (F) Outstanding Resource Waters (ORW) in Non-Coastal Counties – 15A NCAC 02H .1021;
 - (G) Coastal Counties – 15A NCAC 02H .1019;
 - (H) Neuse River Basin Nutrient Sensitive Waters (NSW) Management Strategy – 15A NCAC 02B .0235;
 - (I) Tar-Pamlico River Basin Nutrient Sensitive (NSW) Management Strategy – 15A NCAC 02B .0258;
 - (J) Randleman Lake Water Supply Watershed Nutrient Management Strategy – 15A NCAC 02B .0251; and

- (K) Other Environmental Management Commission Nutrient Sensitive Waters (NSW) Classifications – 15A NCAC 02B .0223.
- (3) Delineation Process. The Commission shall delineate regulated coverage areas as follows:
 - (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 shall be the unincorporated area of a county that is outside a municipality designated as a regulated entity pursuant to Rule .0151(a)(2) and (3) of this Subchapter 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; or
 - (iii) 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 Part (3)(B) of this Subparagraph as a candidate coverage area if the discharge of stormwater within or from the unincorporated area has the potential to have an adverse impact on water quality.
 - (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 candidate coverage areas. The Commission shall accept public comment on the proposed delineation of a candidate 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) has an adverse impact on 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 best usages.
 - (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.
- (4) Except as provided in this Subparagraph and Rule .1018 of this Section, 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 Rule .1018 of this Section.

(b) Development in Incorporated Areas in Certain Counties. Development that cumulatively disturbs one acre or more of land, including development that disturbs less than one acre of land that is part of a larger common plan of development or sale, that is located in the incorporated areas of a county described in Parts (a)(1)(D) and (E) of this Rule that are not designated as an urbanized area under the most recent federal decennial census shall comply with the standards set forth in Rule. 1017 of this Section 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 Rule .1018 of this Section.

History Note: Authority G.S. 143-214.1; 143-214.7; 143-215.1; 143-215.3(a)(1); S.L. 2006-246; S.L. 2011-220; Eff. July 3, 2012; Amended Eff. July 1, 2013;

Readopted Eff. January 1, 2017.