

15A NCAC 02H .1020 UNIVERSAL STORMWATER MANAGEMENT PROGRAM

(a) Adoption of the Universal Stormwater Management Program (USMP) shall be made at the option of a local government by adopting an ordinance that complies with this Rule and the requirements of 15A NCAC 02B .0104(f). The Commission shall approve local ordinances if it determines that the requirements of the local ordinance meet or exceed the provisions of this Rule and the requirements of 15A NCAC 02B .0104(f). A model ordinance for the USMP shall be available at no cost on the Division's website at <http://deq.nc.gov/about/divisions/energy-mineral-land-resources/energy-mineral-land-permits/stormwater-permits/usmp>. Administration and implementation of the USMP shall be the responsibility of the adopting local government within its jurisdiction. Local governments located within one of the 20 Coastal Counties may elect to have the Division administer and implement the USMP, either in whole or in part, within their jurisdiction following their adoption of the program. The requirements of the USMP shall supersede and replace all other existing post-construction stormwater requirements within that jurisdiction, as specified in Paragraph (b) of this Rule.

(b) With the exceptions noted in Paragraph (c) of this Rule, the requirements specified in this Rule shall replace the following post-construction stormwater control requirements:

- (1) Water Supply (WS) Watershed II (WS II) (15A NCAC 02B .0214(3)(b)(i));
- (2) WS Watershed II Critical Area (WS II CA) (15A NCAC 02B .0214(3)(b)(ii));
- (3) WS Watershed III (WS III) (15A NCAC 02B .0215(3)(b)(i));
- (4) WS Watershed III Critical Area (WS III CA) (15A NCAC 02B .0215(3)(b)(ii));
- (5) WS Watershed IV (WS IV) (15A NCAC 02B .0216(3)(b)(i));
- (6) WS Watershed IV Critical Area (WS IV CA) (15A NCAC 02B .0216(3)(b)(ii));
- (7) High Quality Waters (HQW) for Freshwaters (15A NCAC 02H .1021);
- (8) Outstanding Resource Waters (ORW) for Freshwaters (15A NCAC 02H .1021);
- (9) Outstanding Resource Waters (ORW) for Saltwaters (15A NCAC 02H .1019);
- (10) Shellfishing Waters (SA) (15A NCAC 02H .1019);
- (11) Post-Construction Stormwater Requirements of the NPDES MS4Program (15A NCAC 02H .1017);
- (12) Coastal Counties Stormwater Requirements in 15A NCAC 02H .1019;
- (13) Stormwater Management Plans for 401 Water Quality Certifications under 15A NCAC 02H .0500;
- (14) Catawba Buffer Rules (15A NCAC 02B .0243); and
- (15) Urban Stormwater Management Requirements of the Randleman Lake Water Supply Watershed Rules (15A NCAC 02B .0251).

(c) As mandated in 15A NCAC 02H .0506(b)(5) and (c)(5), the Director may review and require amendments to proposed stormwater control plans submitted under the provisions of the certification process pursuant to Section 401 of the Clean Water Act (33 U.S.C. 1341) in order to ensure that the proposed activity will not violate water quality standards.

(d) Adoption of the USMP shall not affect the requirements specified in the following Rules:

- (1) 15A NCAC 02B .0214(3)(b)(i)(I);
- (2) 15A NCAC 02B .0214(3)(b)(ii)(C) and (D);
- (3) 15A NCAC 02B .0215(3)(b)(i)(I);
- (4) 15A NCAC 02B .0215(3)(b)(ii)(C) and (D); and
- (5) 15A NCAC 02B .0216(3)(b)(ii)(C) and (D).

(e) The Catawba Buffer Rules shall be superseded in those areas where the buffers are contained within the jurisdiction of another stormwater program listed in Paragraph (b) of this Rule and the requirements of that program shall be replaced by the USMP. For the watershed that drains to Lake James, which is not contained within the jurisdiction of another stormwater program, the Catawba Buffer Rules shall be superseded if the USMP is implemented in the entire area within five miles of the normal pool elevation of Lake James.

(f) The implementation of the USMP shall supersede the Urban Stormwater Requirements of the Randleman Lake Water Supply Watershed in 15A NCAC 02B .0251, but USMP implementation does not affect the Randleman Lake Water Supply Watershed: Protection and Maintenance of Existing Riparian Buffers requirements specified in 15A NCAC 02B .0250.

(g) Coastal Counties Requirements. All development activities located in one of the 20 Coastal Counties that disturb 10,000 square feet or more of land, including projects that disturb less than 10,000 square feet of land that are part of a larger common plan of development or sale, shall control the runoff from the first one and one half inch of rainfall to the level specified in Paragraph (i) of this Rule. In addition, all impervious surfaces, except for roads, paths, and water dependent structures, shall be located at least 30 feet landward of all perennial waterbodies,

perennial streams, and intermittent streams. In addition to the other requirements specified in this Paragraph, all development activities that are located within 575 feet of waters designated by the Commission as shellfishing waters shall be limited to a maximum impervious surface density of 36 percent. Redevelopment activities shall not be required to comply with the requirements of this Paragraph.

(h) Non-Coastal Counties Requirements. All residential development activity that is located in one of the 80 Non-Coastal Counties that disturbs one acre or more of land, including residential development that disturbs less than one acre of land that is part of a larger common plan of development or sale, and all non-residential development activity that is located in one of the 80 Non-Coastal Counties that disturbs $\frac{1}{2}$ acre or more of land, including non-residential development that disturbs less than $\frac{1}{2}$ acre of land that is part of a larger common plan of development or sale, shall control the runoff from the first one inch of rainfall as specified in Paragraph (i) of this Rule. Except as allowed in this Paragraph, no new impervious or partially pervious surfaces, except for roads, paths, and water dependent structures, shall be allowed within the one percent Annual Chance Floodplain as delineated by the North Carolina Floodplain Mapping Program in the Division of Emergency Management which is herein incorporated by reference, including subsequent amendments and editions, and may be accessed at no cost at <http://www.ncfloodmaps.com/>. For perennial and intermittent streams that do not have a floodplain delineated by the Floodplain Mapping Program, all development activities subject to this Rule shall be located at least 30 feet landward of all perennial waterbodies, perennial streams, and intermittent streams. In addition to the other requirements specified in this Paragraph, all development activities that are located within the area designated by the Commission as a Critical Area of a Water Supply Watershed as defined in 15A NCAC 02B .0202 shall be limited to a maximum impervious surface density of 36 percent. Redevelopment of residential structures within the one percent Annual Chance Floodplain shall be allowed. Redevelopment of non-residential structures within the one percent Annual Chance Floodplain shall be allowed provided that less than $\frac{1}{2}$ acre is disturbed during the redevelopment activity. Redevelopment activities outside of the one percent Annual Chance Floodplain shall not be required to comply with the requirements of this Paragraph.

(i) Structural stormwater controls required under Paragraphs (g) and (h) of this Rule shall meet the following criteria:

- (1) achieve either runoff treatment or runoff volume match in accordance with Paragraphs (g) and (h) of this Rule; and
 - (A) for SCMs designed to achieve runoff treatment, the required storm depth shall be one and one half inch in the Coastal Counties and one inch in the Non-Coastal Counties.
 - (B) applicants shall have the option to use SCMs designed to achieve "runoff volume match" in lieu of "runoff treatment" in accordance with the definitions of those terms in Rule .1002 of this Section; and
- (2) meet the requirements for all projects subject to stormwater rules as set forth in Rule .1003 of this Section.

(j) For the purposes of this Rule, a surface water shall be deemed present if the feature is shown on either the most recent published version of the soil survey map prepared by the Natural Resources Conservation Service of the United States Department of Agriculture which is herein incorporated by reference, including subsequent amendments and editions, and may be accessed at no cost at <http://www.nrcs.usda.gov/wps/portal/nrcs/main/soils/survey/> or the most recent version of the 1:24,000 scale (7.5 minute) quadrangle topographic maps prepared by the United States Geologic Survey (USGS) which is herein incorporated by reference, including subsequent amendments and editions, and may be accessed at no cost at <http://www.usgs.gov/pubprod/>. Relief from this requirement may be allowed when surface waters are not present in accordance with the provisions of 15A NCAC 02B .0233(3)(a).

(k) Local governments that implement the USMP shall require applicants to record deed restrictions and protective covenants that ensure that the project will be maintained in perpetuity consistent with approved plans.

(l) Local governments that implement the USMP shall require an operation and maintenance plan that ensures the operation of the structural stormwater control measures required by the USMP. The operation and maintenance plan shall require the owner of each structural control to submit a maintenance inspection report on each structural stormwater control measure annually to the local program.

(m) In addition to the other measures required in this Rule, all development activities located in one of the 20 Coastal Counties that disturb 10,000 square feet or more of land within $\frac{1}{2}$ mile and draining to SA waters shall:

- (1) use stormwater control measures that result in fecal coliform die-off and that control to the maximum extent practicable sources of fecal coliform while complying with Paragraph (i) of this Rule; and

- (2) prohibit new direct points of stormwater discharge to SA waters or expansion of existing stormwater conveyance systems that drain to SA waters. Any modification or redesign of a stormwater conveyance system within the contributing drainage basin shall not increase the net amount or rate of stormwater discharge through existing outfalls to SA waters. Diffuse flow of stormwater at a non-erosive velocity to a vegetated buffer or other natural area capable of providing effective infiltration of the runoff from the 1-year, 24-hour storm shall not be considered a direct point of stormwater discharge. Consideration shall be given to soil type, slope, vegetation, and existing hydrology when evaluating infiltration effectiveness.
- (n) In addition to the other measures required in this Rule, development activities draining to trout (Tr) waters shall use stormwater control measures that do not cause an increase in the receiving water temperature while still incorporating the requirements specified in Paragraph (i) of this Rule.
- (o) The Division, upon determination that a local government is failing to implement or enforce the approved local stormwater program, shall notify the local government in writing of the local program's deficiencies. If the local government has not corrected the deficiencies within 90 days of receipt of written notification from the Division, then the Division shall take the following action:
- (1) implement the requirements of 15A NCAC 02B .0243 and 15A NCAC 02H .1019, and .1021 in lieu of the local government's administration of the USMP in areas subject to those Rules; and
 - (2) enforce the requirements of 15A NCAC 02B .0214 through .0216, and .0251, and 15A NCAC 02H .0500 and .1017 in areas subject to those Rules.
- (p) Development activities conducted within a jurisdiction where the USMP has been implemented may take credit for the nutrient reductions achieved by utilizing diffuse flow in the one percent Annual Chance Floodplain to comply with the nutrient loading limits specified within NSW Rules where the one percent Annual Chance Floodplain exceeds the 50-foot Riparian Buffers. Development activities occurring where the USMP has been implemented but there is no delineated one percent Annual Chance Floodplain may take credit for the nutrient reductions achieved by utilizing diffuse flow into a vegetated filter strip that exceeds the 50-foot Riparian Buffer by at least 30 feet and has a slope of five degrees or less.
- (q) The following special provisions of the USMP apply only to federal facilities and Department of Defense (DoD) installations. Federal facilities and DoD installations may adopt the USMP within their boundaries by submitting a letter to the Chairman of the Commission that states that the facility in question has adopted controls that comply with the requirements of this Rule and with the requirements of 15A NCAC 02B .0104(f). In lieu of the protective covenants and deed restrictions required in Paragraph (k) of this Rule, federal facilities and DoD installations that choose to adopt the USMP within their boundaries shall incorporate specific restrictions and conditions into base master plans or other appropriate instruments to ensure that development activities regulated under this Rule will be maintained in a manner consistent with the approved plans.
- (r) Implementation of this USMP does not affect any other rule or requirement not specifically cited in this Rule.

*History Note: Authority G.S. 143-214.1; 143-214.5; 143-214.7; 143-215.1; 143-215.3(a); 143-215.6A; 143-215.6B; 143-215.6C;
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