15A NCAC 02B .0281 FALLS WATER SUPPLY NUTRIENT STRATEGY: STORMWATER REQUIREMENTS FOR STATE AND FEDERAL ENTITIES

The following is the stormwater strategy, as prefaced in Rule 02B .0275, for the activities of state and federal entities within the Falls watershed.

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

(a) To achieve and maintain, on new non-road development lands, the nonpoint source nitrogen and phosphorus percentage reduction objectives established for Falls Reservoir in 15A NCAC 02B .0275 relative to the baseline period defined in Rule, to provide the highest practicable level of treatment on new road development, and to achieve and maintain the percentage objectives on existing developed lands by reducing loading from state-maintained roadways and facilities, and from lands controlled by other state and federal entities in the Falls watershed;

(b) To ensure that the integrity and nutrient processing functions of receiving waters and associated riparian buffers are not compromised by erosive flows from state-maintained roadways and facilities and from lands controlled by other state and federal entities in the Falls watershed; and

(c) To protect the water supply, aquatic life, and recreational uses of Falls Reservoir.

(2) APPLICABILITY. This Rule shall apply to all existing and new development, both as defined in 15A NCAC 02B .0276, that lies within or partially within the Falls watershed under the control of the NC Department of Transportation (NCDOT), including roadways and facilities, and to all lands controlled by other state and federal entities in the Falls watershed.

(3) NON-NCDOT REQUIREMENTS. With the exception of the NCDOT, all state and federal entities that control lands within the Falls watershed shall meet the following requirements:

(a) For any new development proposed within their jurisdictions that would disturb one quarter acre or more, non-NCDOT state and federal entities shall develop stormwater management plans for submission to and approval by the Division;

(b) The non-NCDOT state or federal entity shall include measures to ensure maintenance of best management practices (BMPs) implemented as a result of the provisions in Sub-Item (a) of this Item for the life of the development; and

(c) A plan to ensure enforcement and compliance with the provisions in Sub-Item (4) of this Rule for the life of the new development.

(4) PLAN APPROVAL REQUIREMENTS. A developer's stormwater plan shall not be approved unless the following criteria are met:

(a) Nitrogen and phosphorus loads contributed by the proposed new development activity shall not exceed the following unit-area mass loading rates for nitrogen and phosphorus, respectively, expressed in units of pounds/acre/year: 2.2 and 0.33. Proposed development that would replace or expand structures or improvements that existed as of December 2006, the end of the baseline period, and that would not result in a net increase in built-upon area shall not be required to meet the nutrient loading targets or high-density requirements except to the extent that the developer shall provide stormwater control at least equal to the previous development. Proposed development that would replace or expand existing structures or improvements and would result in a net increase in built-upon area shall have the option either to achieve at least the percentage loading reduction objectives stated in 15A NCAC 02B .0275 as applied to nitrogen and phosphorus loading from the previous development for the entire project site, or to meet the loading rate targets described in this item. These requirements shall supersede those identified in 15A NCAC 02B .0104(q). The developer shall determine the need for engineered stormwater controls to meet these loading rate targets by using the loading calculation method called for in Sub-Item (4)(a) of 15A NCAC 02B .0277 or other equivalent method acceptable to the Division;

(b) The developer shall have the option of offsetting part of their nitrogen and phosphorus loads by implementing or funding offsite offset measures. Before using an offsite offset option, a development shall implement onsite structural stormwater controls that achieve one of the following levels of reductions:

(i) Proposed new development activity disturbing at least one quarter acre but less than one acre of land, except as stated in this Item, shall achieve 30 percent or

more of the needed load reduction in both nitrogen and phosphorus loading onsite and shall meet any requirements for engineered stormwater controls described in this item;

(ii) Except as stated in this Item, proposed new development activity that disturbs one acre of land or more shall achieve 50 percent or more of the needed load reduction in both nitrogen and phosphorus loading onsite and shall meet any requirements for engineered stormwater controls described in this Item; or

(iii) Proposed development that would replace or expand structures or improvements that existed as of December 2006, the end of the baseline period, and that increases impervious surface within a designated downtown area, regardless of area disturbed, shall achieve 30 percent of the needed load reduction in both nitrogen and phosphorus onsite, and shall meet any requirements for engineered stormwater controls described in this Item;

(c) Offsite offsetting measures shall achieve at least equivalent reductions in nitrogen and phosphorus loading to the remaining reduction needed onsite to comply with the loading rate targets set out in this Item. A developer may use any measure that complies with the requirements of Rules .0703 and .0282 of this Subchapter;

(d) Proposed new development subject to NPDES, water supply, and other state-mandated stormwater regulations shall comply with those regulations and with applicable permit limits in addition to the other requirements of this sub-item. Proposed new development in any water supply watershed in the Falls watershed designated WS-II, WS-III, or WS-IV shall comply with the density-based restrictions, obligations, and requirements for engineered stormwater controls, clustering options, operation and maintenance responsibilities, vegetated setbacks, land application, and landfill provisions described in Sub-Items (3)(b)(i) and (3)(b)(ii) of the applicable rule among 15A NCAC 02B .0214 through .0216. Provided, the allowance in water supply watershed rules for 10 percent of a jurisdiction to be developed at up to 70 percent built-upon area without stormwater treatment shall not be available in the Falls watershed;

(e) Stormwater systems shall be designed to control and treat at a minimum the runoff generated from all surfaces in the project area by one inch of rainfall. The treatment volume shall be drawn down pursuant to standards specific to each practice as provided in the July 2007 version of the Stormwater Best Management Practices Manual published by the Division, or other at least technically equivalent standards acceptable to the Division;

(f) To ensure that the integrity and nutrient processing functions of receiving waters and associated riparian buffers are not compromised by erosive flows, 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 one-year, 24-hour storm event;

(g) New development may satisfy the requirements of this Rule by meeting the post-development hydrologic criteria set out in Chapter 2 of the North Carolina Low Impact Development Guidebook dated June 2009, or the hydrologic criteria in the most recent version of that guidebook; and

(h) Proposed new development shall demonstrate compliance with the riparian buffer protection requirements of 15A NCAC 02B .0233 and .0242.

(5) NON-NCDOT STAGED AND ADAPTIVE IMPLEMENTATION REQUIREMENTS. For existing development, non-NCDOT state and federal entities shall develop and implement staged load reduction programs for achieving and maintaining nutrient load reductions from existing development based on the standards set out in this Item. Such entities shall submit these load-reducing programs for approval by the Commission that include the following staged elements and meet the minimum standards for each stage of implementation:

(a) In Stage I, entities subject to this rule shall implement a load reduction program that provides estimates of, and plans for offsetting by calendar year 2020, nutrient loading increases from lands developed subsequent to the baseline (2006) and not subject to the requirements of the Falls Lake new development stormwater program. For these existing developed lands, the current loading rate shall be compared to the loading rate for these lands prior to development for the acres involved, and the difference shall constitute the

load reduction need in annual mass load, in pounds per year. Alternatively, a state or federal entity may assume uniform pre-development loading rates of 2.89 pounds per acre per year N and 0.63 pounds per acre per year P for these lands. The entity shall achieve this stage one load reduction by calendar year 2020. This Stage I program shall meet the criteria defined in Item (4) of 15A NCAC 02B.0278; and

(b) By January 15, 2021, and every five years thereafter, a state or federal entity located in the Upper Falls Watershed as defined in Item (11) of 15A NCAC 02B .0276 shall submit and begin implementing a Stage II load reduction program or revision designed to achieve the percent load reduction objectives from existing developed lands under its control, that includes timeframes for achieving these objectives and that meets the criteria defined in Items (5) and (6) of this Rule.

(6) ELEMENTS OF NON-NCDOT LOAD REDUCTION PROGRAMS. A non-NCDOT state or federal entity load reduction program shall address the following elements:

(a) State and federal entities in the Eno River and Little River subwatersheds shall, as part of their Stage I load reduction programs, begin and continuously implement a program to reduce loading from discharging sand filters and malfunctioning septic systems owned or used by state or federal agencies discharging into waters of the State within those subwatersheds;

(b) State and federal entities in any Falls subwatershed in which chlorophyll a levels have exceeded 40 ug/L in more than seventy-five percent of the monitoring events in any calendar year shall, as part of their Stage I load reduction programs, begin and continuously implement a program to reduce nutrient loading into the waters of the State within that subwatersheds;

(c) The total amount of nutrient loading reductions in Stage I is not increased for state and federal entities by the requirements to add specific program components to address loading from malfunctioning septic systems and discharging sand filters or high nutrient loading levels pursuant to Sub-Items (a) and (b) of this Item;

(d) In preparation for implementation of their Stage I and Stage II load reduction programs, state and federal entities shall develop inventories and characterize load reduction potential to the extent that accounting methods allow for the following:

(i) Wastewater collection systems;

(ii) Discharging sand filter systems, including availability of or potential for central sewer connection;

(iii) Properly functioning and malfunctioning septic systems;

(iv) Restoration opportunities in utility corridors;

(v) Fertilizer management plans for state and federally owned lands;

(vi) Structural stormwater practices, including intended purpose, condition, potential for greater nutrient control; and

(vii) Wetlands and riparian buffers including potential for restoration opportunities.

(e) A state or federal entities load reduction need shall be based on the developed lands owned or used by the state or federal entity within the Falls watershed;

(f) Nitrogen and phosphorous loading from existing developed lands, including loading from onsite wastewater treatment systems to the extent accounting methods allow, shall be calculated by applying the accounting tool described in Item (13) and shall quantify baseline loads of nitrogen and phosphorus to surface waters from the lands under the entity's control as well as loading changes post-baseline. It shall also calculate target nitrogen and phosphorus loads and corresponding reduction needs;

(g) Nitrogen and phosphorus loading from existing developed lands, including loading from onsite wastewater treatment systems to the extent accounting methods allow, shall be calculated by applying the accounting too described in Item (13) of this Rule and shall quantify baseline loads of nitrogen and phosphorus to surface waters from state and federal entities as well as loading changes post-baseline. It shall calculate target nitrogen and phosphorus loads and corresponding load reduction needs;

(h) The Commission shall recognize reduction credit for implementation of policies and practices implemented after January 1, 2007 and before January 15, 2011, to reduce runoff and discharge of nitrogen and phosphorus per Session Law 2009-486. The load

reduction program shall identify specific load-reducing practices implemented subsequent to the baseline period and for which the entity is seeking credit. It shall estimate load reductions for these practices and their anticipated duration using methods provided for in Item (13);

(i) The program shall include a proposed implementation schedule that includes annual implementation expectations. The load reduction program shall identify the types of activities the state or federal entity intends to implement and types of existing development affected, relative proportions or prioritization of practices, relative magnitude of reductions it expects to achieve from each, and the relative costs and efficiencies of each activity to the extent information is available. The program shall identify the duration of anticipated loading reductions, and may seek activities that provide long-term reductions;

(j) The load reduction program shall identify anticipated funding mechanisms or sources and discuss steps taken or planned to secure such funding;

(k) The program shall address the extent of load reduction opportunities intended from the following types of lands:
- (i) Lands owned or otherwise controlled by the state or federal entity; and
- (ii) Lands other than those on which the entity's load reduction need is based as described in this Item, including lands both within and outside its jurisdiction and third party sellers.

(l) The program shall address the extent of load reduction proposed from, at a minimum, the following stormwater and ecosystem restoration activities:
- (i) Bioretention;
- (ii) Constructed wetland;
- (iii) Sand filter;
- (iv) Filter Strip;
- (v) Grassed swale;
- (vi) Infiltration device;
- (vii) Extended dry detention;
- (viii) Rainwater harvesting system;
- (ix) Treatment of Redevelopment;
- (x) Overtreatment of new development;
- (xi) Removal of impervious surface;
- (xii) Retrofitting treatment into existing stormwater ponds;
- (xiii) Off-line regional treatment systems;
- (xiv) Wetland or riparian buffer restoration; and
- (xv) Reforestation with conservation easement or other protective covenant.

(m) The program shall evaluate the load reduction potential from the following wastewater activities:
- (i) Creation of surplus relative to an allocation established in 15A NCAC 02B .0279;
- (ii) Expansion of surplus allocation through regionalization;
- (iii) Connection of discharging sand filters and malfunctioning septic systems to central sewer or replacement with permitted non-discharge alternatives;
- (iv) Removal of illegal discharges; and
- (v) Improvement of wastewater collection systems.

(n) A state or federal entity may propose in its load reduction program the use of the following measures in addition to items listed in (l) and (m), or may propose other measures for which it can provide equivalent accounting methods acceptable to the Division:
- (i) Redirecting runoff away from impervious surfaces;
- (ii) Soil amendments;
- (iii) Stream restoration;
- (iv) Improved street sweeping; and
- (v) Source control, such as waste and fertilizer controls.

(o) The program shall include evaluation of load reduction potential relative to the following factors:
    (i) Extent of physical opportunities for installation;
    (ii) Landowner acceptance;
    (iii) Incentive and education options for improving landowner acceptance;
    (iv) Existing and potential funding sources and magnitudes;
    (v) Practice cost-effectiveness (e.g., cost per pound of nutrient removed);
    (vi) Increase in per capita cost of a non-NCDOT state or federal entity's stormwater management program to implement the program;
    (vii) Implementation rate without the use of eminent domain; and
    (viii) Need for and projected role of eminent domain.

(7) The Commission shall approve a non-NCDOT Stage I load reduction program if it meets the requirements of Items (5) and (6) of this Rule. The Commission shall approve a Stage II load reduction program if it meets the requirements of Items (5) and (6) of this Rule unless the Commission finds that the local non-NCDOT state or federal entity can, through the implementation of reasonable and cost-effective measures not included in the proposed program, meet the Stage II nutrient load reductions required by this Rule by a date earlier than that proposed by the non-NCDOT state or federal entity. If the Commission finds that there are additional or alternative reasonable and cost-effective measures, the Commission may require the non-NCDOT state or federal entity to modify its proposed program to include such measures to achieve the required reductions by the earlier date. If the Commission requires such modifications, the non-NCDOT state or federal entity shall submit a modified program within two months. The Division shall recommend that the Commission approve or disapprove the modified program within three months after receiving the modified program. In determining whether additional or alternative load reduction measures are reasonable and cost effective, the Commission shall consider factors including, but not limited to those identified in Sub-Item (6)(o) of this Rule. The Commission shall not require additional or alternative measures that would require a non-NCDOT state or federal entity to:
    (a) Install a new stormwater collection system in an area of existing development unless the area is being redeveloped; or
    (b) Reduce impervious surfaces within an area of existing development unless the area is being redeveloped.

(8) A non-NCDOT state or federal entity shall have the option of working with the county or counties in which it falls, or with a municipality or municipalities within the same subwatershed, to jointly meet the loading targets from all lands within their combined jurisdictions within a subwatershed. The entity may utilize private or third party sellers. All reductions involving trading with other parties shall meet the requirements of 15A NCAC 02B .0282.

(9) NCDOT REQUIREMENTS. The NCDOT shall develop a single Stormwater Management Program that will be applicable to the entire Falls watershed and submit this program for approval by the Division according to the standards set forth below. In addition, the program shall, at a minimum, comply with NCDOT's then-current stormwater permit. This program shall:
    (a) Identify NCDOT stormwater outfalls from Interstate, US, and NC primary routes;
    (b) Identify and eliminate illegal discharges into the NCDOT's stormwater conveyance system;
    (c) Establish a program for post-construction stormwater runoff control for new development, including new and widening NCDOT roads and facilities. The program shall establish a process by which the Division shall review and approve stormwater designs for new NCDOT development projects. The program shall delineate the scope of vested projects that would be considered as existing development, and shall define lower thresholds of significance for activities considered new development. In addition, the following criteria shall apply:
        (i) For new and widening roads, weigh stations, and replacement of existing bridges, compliance with the riparian buffer protection requirements of Rules 15A NCAC 02B .0233 and .0242 shall be deemed as compliance with the purposes of this Rule;

(ii) New non-road development shall achieve and maintain the nitrogen and phosphorus percentage load reduction objectives established in 15A NCAC 02B .0275 relative to either area-weighted average loading rates of all developable lands as of the baseline period defined in 15A NCAC 02B .0275, or to project-specific pre-development loading rates. Values for area-weighted average loading rate targets for nitrogen and phosphorus, respectively, are expressed in units of pounds per acre per year: 2.2 and 0.33. The NCDOT shall determine the need for engineered stormwater controls to meet these loading rate targets by using the loading calculation method called for in Item (13) of this Rule or other equivalent method acceptable to the Division. Where stormwater treatment systems are needed to meet these targets, they shall be designed to control and treat the runoff generated from all surfaces by one inch of rainfall. Such systems shall be assumed to achieve the nutrient removal efficiencies identified in the July 2007 version of the Stormwater Best Management Practices Manual published by the Division provided that they meet associated drawdown and other design specifications included in the same document. The NCDOT may propose to the Division nutrient removal rates for practices currently included in the BMP Toolbox required under its NPDES stormwater permit, or may propose revisions to those practices or additional practices with associated nutrient removal rates. The NCDOT may use any such practices approved by the Division to meet loading rate targets identified in this Sub-item. New non-road development shall also control runoff flows to meet the purpose of this Rule regarding protection of the nutrient functions and integrity of receiving waters; and

(iii) For new non-road development, the NCDOT shall have the option of offsetting part of their nitrogen and phosphorus loads by implementing or funding offsite management measures. Before using an offsite offset option, a development shall implement structural stormwater controls that achieve 50 percent or more of the needed load reduction in both nitrogen and phosphorus loading onsite and shall meet any requirements for engineered stormwater controls described in this Item. Offsite offsetting measures shall achieve at least equivalent reductions in nitrogen and phosphorus loading to the remaining reduction needed onsite to comply with the loading rate targets set out in this Item. The NCDOT may use any measure that complies with the requirements of Rules .0703 and .0282 of this Subchapter.

(d) Establish a program to identify and implement load-reducing opportunities on existing development within the watershed. The long-term objective of this effort shall be for the NCDOT to achieve the nutrient load objectives in 15A NCAC 02B .0275 as applied to existing development under its control, including roads and facilities:

(i) The NCDOT may achieve the nutrient load reduction objective in 15A NCAC 02B .0275 for existing roadway and non-roadway development under its control by the development of a load reduction program that addresses both roadway and non-roadway development in the Falls watershed. As part of the accounting process described in Item (13) of this Rule, baseline nutrient loads shall be established for roadways and industrial facilities using stormwater runoff nutrient load characterization data collected through the National Pollutant Discharge Elimination System (NPDES) Research Program under NCS0000250 Permit Part II Section G;

(ii) The program shall include estimates of, and plans for offsetting, nutrient load increases from lands developed subsequent to the baseline period but prior to implementation of its new development program. It shall include a technical analysis that includes a proposed implementation rate and schedule. This schedule shall provide for proportionate annual progress toward reduction objectives as practicable throughout the proposed compliance period. The program shall identify the types of activities NCDOT intends to implement and types of existing roadway and non-roadway development affected, relative

proportions or a prioritization of practices, and the relative magnitude of reductions it expects to achieve from each;

(iii) The program to address roadway and non-roadway development may include stormwater retrofits and other load reducing activities in the watershed including: illicit discharge removal; street sweeping; source control activities such as fertilizer management at NCDOT facilities; improvement of existing stormwater structures; use of rain barrels and cisterns; stormwater capture and reuse; and purchase of nutrient reduction credits;

(iv) NCDOT may meet minimum implementation rate and schedule requirements by implementing a combination of at least six stormwater retrofits per year for existing development in the Falls watershed or some other minimum amount based on more accurate reduction estimates developed during the accounting tool development process;

(v) To the maximum extent practicable, retrofits shall be designed to treat the runoff generated from all surfaces by one inch of rainfall, and shall conform to the standards and criteria established in the most recent version of the Division-approved NCDOT BMP Toolbox required under NCDOT's NPDES stormwater permit. To establish removal rates for nutrients for individual practices described in the Toolbox, NCDOT shall submit technical documentation on the nutrient removal performance of BMPs in the Toolbox for Division approval. Upon approval, NCDOT shall incorporate nutrient removal performance data into the BMP Toolbox. If a retrofit is proposed that is not described in the NCDOT BMP Toolbox, then to the maximum extent practicable, such retrofit shall conform to the standards and criteria set forth in the July 2007 version of the Stormwater Best Management Practices Manual published by the Division, or other technically equivalent guidance acceptable to the Division;

(e) Initiate a "Nutrient Management Education Program" for NCDOT staff and contractors engaged in the application of fertilizers on highway rights of way. The purpose of this program shall be to contribute to the load reduction objectives established in 15A NCAC 02B .0275 through proper application of nutrients, both inorganic fertilizer and organic nutrients, to highway rights of way in the Falls watershed in keeping with the most current state-recognized technical guidance on proper nutrient management; and

(f) Address compliance with the riparian buffer protection requirements of 15A NCAC 02B .0233 and .0242 through a Division approval process.

(10) NON-NCDOT RULE IMPLEMENTATION. For all state and federal entities that control lands within the Falls watershed with the exception of the NCDOT, this Rule shall be implemented as follows:

(a) Upon Commission approval of the accounting methods required in Item (13) of this Rule, subject entities shall comply with the requirements of Items (3) and (4) of this Rule;

(b) By July 15, 2013, the Division shall submit a Stage I model local program to the Commission for approval that embodies the criteria described in Items (5) and (6) of this Rule. The Division shall work in cooperation with subject state and federal entities and other watershed interests in developing this model program, which shall include the following:

(i) Methods to quantify load reduction requirements and resulting load reduction assignments for individual entities;

(ii) Methods to account for discharging sand filters, malfunctioning septic systems, and leaking collection systems; and

(iii) Methods to account for load reduction credits from various activities;

(c) Within six months after the Commission's approval of the Stage I model local program, subject entities shall submit load reduction programs that meet or exceed the requirements of Items (5) and (6) of this Rule to the Division for review and preliminary approval and shall begin implementation and tracking of measures to reduce nutrient loads from existing developed lands owned or controlled by the responsible state or federal entity;

(d) Within 20 months of the Commission's approval of the Stage I model local program, the Division shall provide recommendations to the Commission on existing development load reduction programs. The Commission shall either approve the programs or require changes based on the standards set out in Item (4) of this Rule. Should the Commission require changes, the applicable state or federal entity shall have two months to submit revisions, and the Division shall provide follow-up recommendations to the Commission within two months after receiving revisions;

(e) Within three months after the Commission's approval of a Stage I existing development load reduction program, the affected entity shall complete adoption of and begin implementation of its existing development Stage I load reduction program;

(f) Upon implementation of the programs required under Item (4) of this Rule, state and federal entities subject to this Rule shall provide annual reports to the Division documenting their progress in implementing those requirements within three months following each anniversary of program implementation date until such time the Commission determines they are no longer needed to ensure maintenance of reductions or that standards are protected. State and federal entities shall indefinitely maintain and ensure performance of implemented load-reducing measures;

(g) By January 15, 2021 and every five years thereafter until either accounting determines load reductions have been achieved, standards are met, or the Commission takes other actions per 15A NCAC 02B .0275, state and federal entities located in the upper Falls watershed as defined in Item (3) of 15A NCAC 02B .0275 shall submit and begin implementation of Stage II load reduction program or program revision to the Division. Within nine months after submittal, the division shall make recommendations to the Commission on approval of these programs. The Commission shall either approve the programs or require changes based on the standards set out in this Rule. Should the Commission require changes, the applicable state or federal entity shall submit revisions within two months, and the Division shall provide follow-up recommendations to the Commission within three months after receiving revisions. Upon approval, the state or federal entity shall adjust implementation based on its approved program;

(h) A state or federal entity may, at any time after commencing implementation of its load reduction program, submit program revisions to the Division for approval based on identification of more cost-effective strategies or other factors not originally recognized;

(i) Once either load reductions are achieved per annual reporting or water quality standards are met in the lake per 15A NCAC 02B .0275, state and federal entities shall submit programs to ensure no load increases and shall report annually per Sub-Item (10)(f) on compliance with no increases and take additional actions as necessary; and

(j) Beginning January 2016 and every five years thereafter, the Division shall review the accounting methods stipulated under Sub-Item (10)(a) to determine the need for revisions to those methods and to loading reductions assigned using those methods. Its review shall include values subject to change over time independent of changes resulting from implementation of this Rule, such as untreated export rates that may change with changes in atmospheric deposition. It shall also review values subject to refinement, such as nutrient removal efficiencies.

(11) NCDOT RULE IMPLEMENTATION. For the NCDOT, this Rule, shall be implemented as follows:

(a) By July 2013, the NCDOT shall submit the Stormwater Management Program for the Falls watershed to the Division for approval. This Program shall meet or exceed the requirements in Item (9) of this Rule;

(b) By January 15, 2014, the Division shall request the Commission's approval of the NCDOT Stormwater Management Program;

(c) By January 15, 2014, the NCDOT shall implement the Commission-approved Stormwater Management Program; and

(d) Upon implementation, the NCDOT shall submit annual reports to the Division summarizing its activities in implementing each of the requirements in Item (9) of this Rule. This annual reporting may be incorporated into annual reporting required under NCDOT's NPDES stormwater permit.

(12) RELATIONSHIP TO OTHER REQUIREMENTS. A party may in its program submittal request that the Division accept its implementation of another stormwater program or programs, such as NPDES stormwater requirements, as satisfying one or more of the requirements set forth in Items (4) or (5) of this Rule. The Division shall provide determination on acceptability of any such alternatives prior to requesting Commission approval of programs under this Rule. The party shall include in its program submittal technical information demonstrating the adequacy of the alternative requirements.

(13) ACCOUNTING METHODS. By July 15, 2012, the Division shall submit a nutrient accounting framework to the Commission for approval. This framework shall include tools for quantifying load reduction assignments on existing development for parties subject to this Rule, load reduction credits from various activities on existing developed lands, and a tool that will allow subject parties to account for loading from new and existing development and loading changes due to BMP implementation. The Division shall work in cooperation with subject parties and other watershed interests in developing this framework. The Division shall periodically revisit these accounting methods to determine the need for revisions to both the methods and to existing development load reduction assignments made using the methods set out in this Rule. It shall do so no less frequently than every 10 years. Its review shall include values subject to change over time independent of changes resulting from implementation of this Rule, such as untreated export rates that may change with changes in atmospheric deposition. It shall also review values subject to refinement, such as BMP nutrient removal efficiencies.

History Note: *Authority G.S. 143-214.1; 143-214.3; 143-214.5; 143-214.7; 143-215.1; 143-215.3; 143-215.3(a)(1); 143-215.6A; 143-215.6B; 143-215.6C; 143-215.8B; 143B-282(c); 143B-282(d); S.L. 2005-190; S.L. 2006-259; S.L. 2009-337; S.L. 2009-486;*
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