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**Sent:** Wednesday, June 18, 2008 6:36 AM

**To:** Reeder, Tom NCDWQ; George Givens (Research)

**Subject:** CSRWG Coastal Stormwater Rules

June 18, 2008

Mr. Reeder and Mr. Givens:

Again, thank you for your diligence and patience during the 605 process regarding the coastal stormwater rules. The following items are of concern for any final compromise in this rule making:

1----The limits of S.A. waters need to be defined so that landowners can definitively know to whom these rules apply too. This can be done quantitatively such as "shellfish resource waters" in order to be consistent with the Phase 2 session law (definition #15) which is 500 ppm natural chloride content. In addition, a quick prescriptive or qualitative method should also be allowed as the landward limits of tidal CAMA vegetation from designated S.A. Waters.

This will also prevent a conflict with established Rule NCAC 15 .02B 301-i 1-B&C which already classifies "un-named freshwater streams" relative to S.A. Waters. If these streams and adjacent lands are within 1/2 mile of the above determined S.A. waters then the stricter stormwater density requirements would apply.

2----Proposed Rule b-6 regarding separation from seasonal high water table for infiltration systems. This should be lowered from 2 ft separation to 1 ft separation to be consistent with Phase 2 stormwater rules. The 2 ft water table separation criteria for stormwater infiltration is exceedingly difficult to meet in coastal counties. In addition, none of DWQ's recommended infiltration BMP's such as permeable pavement could be utilized in most areas.

There also needs to be language that just states effective infiltration for a normal climatic year, as any lands can be saturated after Hurricane Floyd events.

3----A 30 ft vegetative buffer is sufficient for low & high density development, and which makes it consistent with established Phase 2 session law. It also needs to be stated a vegetative buffer can be within wetland areas. When engineered stormwater systems are installed the stormwater is treated and a 50 ft vegetative filter is already required, which should also be the vegetative buffer, thus within the proposed rules the "and" between b-2-B-iii and b-2-B-iv should be deleted.

4----Within 1/2 mile of S.A. Waters, detention ponds should be kept as a tool for stormwater treatment solutions. There is no data showing that detention pond systems adversely impact coastal water quality any more than other stormwater treatment and control system. It is critical to the regulated coastal community that the detention pond tool remain available for stormwater treatment and control within 1/2 mile of SA waters relative to the lower density requirements.

5----Minimum lot sizes for "12% low density subdivisions" will increase to >0.83 acre from the current ~0.40 acre. Affordable low density coastal housing within 1/2 mile of S.A. waters may be a thing of the past. Recognizing that natural wetlands are the best biofilters, we need to allow a landowner prorated credits for their wetland acreage, relative to built upon area density limits, such as 18 to 25% density if the tract has >50% wetlands, to 12% density if the tract has 0% wetlands. This is already being done to some degree with NCDWQ's current internal guidance policy that has been discussed at length in defining "pocket of high density".

6----Proposed Rule b-2-C. This part requires low and high density projects within 1/2 mile of S.A. Waters to effectively infiltrate all stormwater within the vegetative buffers up to the annual 24 hr storm event or 3.8 inches. It further states you cannot increase the net amount or volume of water that leaves your tract. This is an impossibility on most sites. We can control the rate and velocity of discharge, but not the total volume or amount. All water runs down hill or laterally which has to increase the volume of water to any drainage conveyance. Please change this wording to mean, "Stormwater will diffuse flow through the vegetative filter at a non-erosive velocity at a rate not to exceed the drawdown time of the designed stormwater structure".

7----The effective date of any compromised rules needs to allow sufficient time for landowners to evaluate their circumstances in order to complete the necessary evaluations and engineering design for permit submittals (+6 - 9 months). In addition, these rules could reduce currently planned and financed projects by 1/2 which would make them economically unfeasible, leaving the banking industry with a multitude of bankruptcies. The effective date should be +9 to 12 months from any date these rules should be approved by the General Assembly. Even this may not be sufficient time with current economical conditions.

8----"Pocket of high density" needs to be defined as meeting the rules and criteria for a high density project. Otherwise, it is very discretionary and arbitrarily applied. The language change to "shall" within the low density sections should remain as in the last revision of these rules.

9----Vested rights, exemptions, and grandfathering clauses need to be written as clearly and liberally as possible to allow vested landowners and the banking industry reasonable due usage for their investments.

Again, thank you for your time and efforts in this process. Hopefully with these items addressed and agreed upon, that a compromise can be attained within the limited time available.

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