

**Summary of Sugarloaf Utilities Request for Exception of “green area” Requirements in
15A NCAC 02H Section .0404(g)(7)**

Background

Sugarloaf Utilities, Inc. owns a permitted (WQ0004059) wastewater treatment and high rate infiltration non-discharge system to serve Sugarloaf Utility, Inc.'s Atlantic Station, in Carteret County. The facility was permitted under the now repealed 15A NCAC 02H .0200 rules for non-discharge systems, as well as the current Coastal Rules in 15A NCAC 02H .0400.

Proposed System Improvements

Sugarloaf Utilities, Inc. proposes to make improvements to the wastewater treatment and disposal system that will require a major modification of its permit. Plant upgrades will be subject to current high rate infiltration system administrative code requirements in 15A NCAC 02T .0700, as well as the coastal rules in 15A NCAC 02H .0400. Two primary changes will be made to the existing System. First, a one-hundred percent repair area will be added adjacent to the high-rate infiltration basin. The repair area will be of sufficient size to accommodate the installation of additional infiltration fields, if necessary. Second, the wastewater treatment will be improved by modifying the System to provide for nitrogen and phosphorous reduction. These improvements will result in the modified System achieving compliance with effluents limitations for total nitrogen and phosphorous of 7 mg/l and 3 mg/l, respectively.

Sugarloaf Utilities, Inc. has provided a preliminary hydrogeologic evaluation of the proposed System showing that the proposed improvements are not only feasible, but will also result in substantial water quality improvements at the site. Based on modeling results and due to the high transmissivity of the underlying soil, total nitrogen will be reduced to approximately 7 mg/l or less.

Proposed Exception

The following bullets show the administrative code for which an exception is being requested, the administrative code that provides the EMC authority to make the exception, and the permit conditions Sugarloaf Utilities, Inc. has proposed to include in permit modification to demonstrate improved water quality and elimination of the need for the “green area”.

- 15A NCAC 02H .0404(g)(7) requires that “[w]aste disposal areas are to contain 1,000 square feet of open ‘green area’ for each residential unit served, or 2,500 square feet per thousand gallons per day of waste flow, whichever is less.”
- 15A NCAC 02H .0407, provides the Commission the ability to provide exceptions from the requirements by stating that “No exception from the requirements of these Regulations shall be made until such exception is approved by the Commission.”

- Exception is contingent on Sugarloaf Utilities Inc. obtaining necessary modification to permit WQ0004059 consistent with applicable Administrative Code requirements and the following additional requirements:
 - Wastewater treatment facility shall meet total nitrogen and total phosphorous effluent limits of 7 mg/l and 3 mg/l, respectively,
 - Plant upgrades will include a one-hundred percent repair area located at the WWTF site.

Other Considerations - Similar Allowance in Non Discharge Rules

15A NCAC 02T .0105(n) allows for the Director to approve alternative design criteria for non-discharge systems, including high rate infiltration systems, provided the applicant can demonstrate the design provides the following:

1. Equal or better treatment of the waste
2. Equal or better protection of the waters of the state
3. No increased potential for nuisance conditions from noise, odor, or vermin.

While the “green area” requirements in 15A NCAC 02H .0400 are not subject to the alternative design criteria allowance in 02T, the 02T rules do establish criteria for granting a similar type of exception.

Other Considerations – Proposed rule enhancements as part of SESSION LAW 2013-413

Session Law 2013-413 (HB74) requires state agencies to review and readopt existing rules. As part of this process draft rules were shared with stakeholders in April 2015 in an effort to receive comment and prepare rules for consideration by the EMC. Draft rules include changes to 15A NCAC 02H .0400 and 15A NCAC 02T to move certain coastal facility requirements from 02H to the 02T rules. The changes include repeal of the requirements to maintain “green area” for non-discharge facilities. Stakeholders have not expressed concerns with the proposed change. Copies of the proposed language that was shared with stakeholders can be viewed at: <http://portal.ncdenr.org/web/wq/ps/csu/rulesreadoption>

Recommendation

Staff recommends that the Water Quality Commission supports the proposed exception request, and that the Commission grants the exception request with the additional conditions proposed by Sugarloaf Utilities.