

Huisman, John

From: sue gray [suegray@nchorsecouncil.com]
Sent: Tuesday, August 03, 2010 3:23 PM
To: john.huisman@ncmail.net
Cc: 'Barbara Oslund'
Subject: Falls Lake Comments



August 03, 2010

Via Electronic Mail

Mr. John Huisman
NCDENR-Division of Water Quality, Planning Section
1617 Mail Service Center
Raleigh, NC 27699-1617

**RE: Falls Reservoir Water Supply Nutrient Strategy
Proposed Rule 15A NCAC 02B .0280: Agriculture**

Dear Mr. Huisman:

The **NC Horse Council** (NCHC) is the voice of the North Carolina equine industry, serving over 50,000 equine operations in the state. We represent the equine agricultural stakeholder in the development of the Falls Reservoir Water Supply Nutrient Strategy (FRWSNS) and were actively involved in the stakeholder committees during the draft rule development. We also actively participate in the Jordan Lake Watershed Oversight Committee for the Jordan Lake Rules, thus have the experience of seeing a very similar rule transition to implementation.

The NCHC understands that much of the proposed regulation is based on the Jordan Water Supply Nutrient Strategy section **15A NCAC 02B .0264**, which affects agriculture. Our concerns with the FRWSNS are similar to those we expressed in 2007 for the Jordan Lake water supply: the **low threshold number** for equines that would be considered agriculture operations, particularly in comparison to higher threshold numbers of livestock such as cattle (which produce more nitrogen and phosphorous in their manure than horses); and, the corresponding **limited availability of agricultural cost share** or other financial assistance for most of the equine operations that would be affected. Our concerns and recommendations for specific sections of the rule are in more detail below.

Comment #1 re: 15A NCAC 02B .0280 (2) PROCESS:

The 2008 Equine Industry Study indicates that 40% of equines are kept solely for recreational (pleasure and trail riding), not commercial purposes. A key assumption in the fiscal analysis of the Falls Nutrient Strategy (June 2010) is that the cost for compliance is part of the cost borne by small business, which is simply not the case for most of the farms that meet or exceed the five horse threshold. “Non-commercial” horse farms are eligible to apply for state cost share assistance through the Agriculture Cost Share Program, but are not eligible for federal funding. Cost share applications for assistance are ranked based on local priority that allows districts to fund projects with the most water quality benefit and addressing their set water quality priorities first, and districts continue to fund projects based on ranking scores and amount of funds available. The problem with small “noncommercial” horse farms is that they don’t always rank and compete well with other eligible sites. We hope that Soil and Water Conservation (SWC) districts within the regulated watersheds can re-examine priorities, but expect that the majority of smaller equine operations simply won’t have state financial assistance options unless there is a significant water quality benefit.

“Non-commercial” horse farms are not currently eligible to apply for federal cost share assistance through the USDA. This is due to the requirements of the Environmental Quality Incentives Program (EQIP) which helps with livestock practices, and requires the farm to produce food or fiber. Essentially all equine operations do not meet this requirement.

This information regarding the unique status of cost-share funding for non-commercial equine operations has been previously made available to DWQ, and can be accessed through the SWC districts. Therefore, it is disappointing to have cost assumptions that are erroneous for many of the applicable equine operations persist in the fiscal analysis of the rule’s financial consequences. A large nutrient reduction is required from agriculture, and equine operations are one of the increasing agricultural land uses in the watershed, creating the potential for a large portion of the compliance cost to be directly borne by the landowner, should Stage II Best Management Practices (BMPs) become required.

In summary, the small equine operations and non-commercial equine-owning households **have limited eligibility for financial assistance, and as a growing agricultural land use, may directly bear a disproportionate amount of the total cost for nutrient reduction without financial assistance.** This has not been captured or noted as an uncertainty in the agricultural fiscal analysis, and we want the NCDENR DWQ to understand and continue to consider the unique context that distinguishes equine operations from other agricultural operations.

Comment #2 re: 15A NCAC 02B .0280 (4)c(i) APPLICABILITY:

The currently proposed threshold of 5 equines is too low in comparison to the other species identified and the nutrients present in manure. The more stringent equine threshold is not solely supported by nutrient contribution.

The use of thresholds in general and specifically for equines is overly simplistic and does not account for the size and management variability between equine livestock and other livestock produced for food. Equines can widely vary in size and are generally fed to achieve athletic performance goals, not to increase weight for meat or milk production. There are different management approaches applicable to small and large equine farms, many that don’t rely upon pasture as a key component of diet. A “pasture” is often an area maintained for exercise, not for nutrition. Through our work on the Watershed Oversight Committee we are aware of the limitations of quantitative phosphorous accounting from pasture, and the challenges of quantifying phosphorous from non-pasture based management. BMPs and methods of nutrient accounting will need to be refined for the specific farm and management strategy, not solely focused on the number of equines and pasture-based management. We believe that **thresholds based on units of available nutrient production per facility and/or units of animal weight (or “stocking rates”) would be a more equitable approach to nutrient reduction from livestock operations.** There is the potential for substantial regulatory inequity as a result of over-simplifying the equine livestock operation. The 5 equine threshold was established during the

development of the Jordan nutrient rules, when there was no representation from the equine industry, and other livestock interests apparently lacked understanding or interest to apply the unique characteristics of the equine industry to the rulemaking process. We believe the Jordan Lake equine threshold is unfairly low and is a poor precedent.

In consideration of the essentially unassisted financial responsibility and inherent inequity of the simple threshold number, NCHC would like **the threshold for equines to be raised or modified** to more fairly account for the farm management practices, the actual nutrient loading reaching surface water, and the farm owner's (lack of) eligibility for cost assistance.

This concludes NCHC's comments on the proposed rules for the Falls Reservoir Water Supply Nutrient Strategy. We are available for any further discussion or clarification of these comments, and want to continue our advisory role in the finalization and eventual implementation of the portions of this rule that affects our industry.

Sincerely,



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Ms. Barbara L. Oslund, PE
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