

15A NCAC 02B .0262 JORDAN WATER SUPPLY NUTRIENT STRATEGY: PURPOSE AND SCOPE

PURPOSE. The purpose of this Rule, 15A NCAC 02B .0263 through .0273 and .0311(p) shall be to restore and maintain nutrient-related water quality standards in B. Everett Jordan Reservoir; protect its classified uses as set out in 15A NCAC 02B .0216, including use as a source of water supply for drinking water, culinary and food processing purposes; and maintain or enhance protections currently implemented by local governments in existing water supply watersheds. These Rules, as further enumerated in Item (3) of this Rule, together shall constitute the Jordan water supply nutrient strategy, or Jordan nutrient strategy. Additional provisions of this Rule include establishing the geographic and regulatory scope of the Jordan nutrient strategy, defining its relationship to existing water quality regulations, setting specific nutrient mass load goals for Jordan Reservoir, providing for the use of adaptive management to restore Jordan Reservoir, and citing general enforcement authorities. The following provisions further establish the framework of the Jordan water supply nutrient strategy:

- (1) **SCOPE.** B. Everett Jordan Reservoir is hereafter referred to as Jordan Reservoir. All lands and waters draining to Jordan Reservoir are hereafter referred to as the Jordan watershed. Jordan Reservoir and all waters draining to it have been supplementally classified as Nutrient Sensitive Waters (NSW) pursuant to 15A NCAC 02B .0101(e)(3) and 15A NCAC 02B .0223. Water supply waters designated WS-II, WS-III, and WS-IV within the Jordan watershed shall retain their classifications. The remaining waters in the Jordan watershed shall be classified WS-V. The requirements of all of these water supply classifications shall be retained and applied except as specifically noted in Item (6) of this Rule and elsewhere within the Jordan nutrient strategy. Pursuant to G.S. 143-214.5(b), the entire Jordan watershed shall be designated a critical water supply watershed and through the Jordan nutrient strategy given additional, more stringent requirements than the state minimum water supply watershed management requirements. These requirements supplement the water quality standards applicable to Class C waters, as described in Rule .0211 of this Section, which apply throughout the Jordan watershed.
- (2) **STRATEGY GOAL.** Pursuant to G.S. 143-215.1(c5), 143-215.8B, and 143B-282(c) and (d) of the Clean Water Responsibility Act of 1997, the Environmental Management Commission establishes the goal of reducing the average annual loads of nitrogen and phosphorus delivered to Jordan Reservoir from point and nonpoint sources of these nutrients located within its watershed, as specified in Item(5) of this Rule, and provides for adaptive management of the strategy and goal, as specified in Item (8) of this Rule.
- (3) **RULES ENUMERATED.** The second rule in the following list provides definitions for terms that are used in more than one rule of the Jordan nutrient strategy. An individual rule may contain additional definitions that are specific to that rule. The rules of the Jordan nutrient strategy shall be titled as follows:
 - (a) Rule .0262 Purpose and Scope;
 - (b) Rule .0263 Definitions;
 - (c) Rule .0264 Agriculture;
 - (d) Rule .0265 Stormwater Management for New Development;
 - (e) Rule .0266 Stormwater Management for Existing Development;
 - (f) Rule .0267 Protection of Existing Riparian Buffers;
 - (g) Rule .0268 Mitigation for Riparian Buffers;
 - (h) Rule .0269 Riparian Buffer Mitigation Fees to the NC Ecosystem Enhancement Program;
 - (i) Rule .0270 Wastewater Discharge Requirements;
 - (j) Rule .0271 Stormwater Requirements for State and Federal Entities;
 - (k) Rule .0272 Fertilizer Management;
 - (l) Rule .0273 Options for Offsetting Nutrient Loads; and
 - (m) Rule .0311 Cape Fear River Basin.
- (4) **RESERVOIR ARMS AND SUBWATERSHEDS.** For the purpose of the Jordan nutrient strategy, Jordan Reservoir is divided into three arms and the Jordan watershed is divided into three tributary subwatersheds as follows:
 - (a) The Upper New Hope arm of the reservoir, identified by index numbers 16-41-1-(14), 16-41-2-(9.5), and 16-41-(0.5) in the Schedule of Classifications for the Cape Fear River Basin, 15A NCAC 02B .0311, encompasses the upper end of the reservoir upstream of SR 1008, and its subwatershed encompasses all lands and waters draining into it.

- (b) The Lower New Hope arm of the reservoir, identified by index number 16-41-(3.5) in the Schedule of Classifications for the Cape Fear River Basin, 15A NCAC 02B .0311, lies downstream of SR 1008 and upstream of the Jordan Lake Dam, excluding the Haw River arm of the reservoir, and its subwatershed encompasses all lands and waters draining into the Lower New Hope arm of the reservoir excluding those that drain to the Upper New Hope arm of the reservoir and the Haw River arm of the reservoir.
 - (c) The Haw River arm of the reservoir, identified by index number 16-(37.5) in the Schedule of Classifications for the Cape Fear River Basin, 15A NCAC 02B .0311, lies immediately upstream of Jordan Lake Dam, and its subwatershed includes all lands and waters draining into the Haw River arm of the reservoir excluding those draining into the Upper and Lower New Hope arms.
- (5) NUTRIENT REDUCTION GOALS. Each arm of the lake has reduction goals, total allowable loads, point source wasteload allocations, and nonpoint source load allocations for both nitrogen and phosphorus based on a field-calibrated nutrient response model developed pursuant to provisions of the Clean Water Responsibility Act of 1997, G.S. 143-215.1(c5). The reduction goals and allocations are to be met collectively by the sources regulated under the Jordan nutrient strategy. The reduction goals are expressed in terms of a percentage reduction in delivered loads from the baseline years, 1997-2001, while allocations are expressed in pounds per year of allowable delivered load. Each arm and subwatershed shall conform to its respective allocations for nitrogen and phosphorus as follows:
- (a) The at-lake nitrogen load reduction goals for the arms of Jordan Reservoir are as follows:
 - (i) The Upper New Hope arm has a 1997-2001 baseline nitrogen load of 986,186 pounds per year and a TMDL reduction goal of 35 percent. The resulting TMDL includes a total allowable load of 641,021 pounds of nitrogen per year: a point source mass wasteload allocation of 336,079 pounds of nitrogen per year, and a nonpoint source mass load allocation of 304,942 pounds of nitrogen per year.
 - (ii) The Lower New Hope arm has a 1997-2001 baseline nitrogen load of 221,929 pounds per year and a nitrogen TMDL capped at the baseline nitrogen load. The resulting TMDL includes a total allowable load of 221,929 pounds of nitrogen per year: a point source mass wasteload allocation of 6,836 pounds of nitrogen per year, and a nonpoint source mass load allocation of 215,093 pounds of nitrogen per year.
 - (iii) The Haw River arm has a 1997-2001 baseline nitrogen load of 2,790,217 pounds per year and a TMDL percentage reduction of 8 percent. The resulting TMDL includes a total allowable load of 2,567,000 pounds of nitrogen per year: a point source mass wasteload allocation of 895,127 pounds of nitrogen per year, and a nonpoint source mass load allocation of 1,671,873 pounds of nitrogen per year.
 - (b) The at-lake phosphorus load reduction goals for the arms of Jordan Reservoir are as follows:
 - (i) The Upper New Hope arm has a 1997-2001 baseline phosphorus load of 87,245 pounds per year and a TMDL percentage reduction of five percent. The resulting TMDL includes a total allowable load of 82,883 pounds of phosphorus per year: a point source mass wasteload allocation of 23,108 pounds of phosphorus per year, and a nonpoint source mass load allocation of 59,775 pounds of phosphorus per year.
 - (ii) The Lower New Hope arm has a 1997-2001 baseline phosphorus load of 26,574 pounds per year and a phosphorus TMDL capped at the baseline phosphorus load. The resulting TMDL includes a total allowable load of 26,574 pounds of phosphorus per year: a point source mass wasteload allocation of 498 pounds of phosphorus per year, and a nonpoint source mass load allocation of 26,078 pounds of phosphorus per year.
 - (iii) The Haw River arm has a 1997-2001 baseline phosphorus load of 378,569 pounds per year and a TMDL percentage reduction of five percent. The resulting TMDL includes a total allowable load of 359,641 pounds of phosphorus per year: a point source mass wasteload allocation of 106,001 pounds of phosphorus per year, and a nonpoint source mass load allocation of 253,640 pounds of phosphorus per year.
 - (c) The allocations established in this Item may change as a result of allocation transfer between point and nonpoint sources to the extent provided for in rules of the Jordan nutrient strategy

and pursuant to requirements on the sale and purchase of load reduction credit set out in 15A NCAC 02B .0273.

- (6) **RELATION TO WATER SUPPLY REQUIREMENTS.** For all waters designated as WS-II, WS-III, or WS-IV within the Jordan watershed, the requirements of water supply 15A NCAC 02B .0214 through .0216 shall remain in effect with the exception of Sub-Item (3)(b) of those rules addressing nonpoint sources. The nonpoint source requirements of Sub-Item (3)(b) of those rules are superseded by the requirements of this Rule and 15A NCAC 02B .0263 through .0269, and .0271 through .0273, except as specifically stated in any of these Rules. For the remaining waters of Jordan watershed, the requirements of water supply Rule .0218 and Rules .0263 through .0273 and .0311 shall be applied. For WS-II, WS-III, and WS-IV waters, the retained requirements of 15A NCAC 02B .0214 through .0216 are the following:
- (a) Item (1) of 15A NCAC 02B .0214 through .0216 addressing best usages;
 - (b) Item (2) of 15A NCAC 02B .0214 through .0216 addressing predominant watershed development conditions, discharges expressly allowed watershed-wide, general prohibitions on and allowances for domestic and industrial discharges, Maximum Contaminant Levels following treatment, and the local option to seek more protective classifications for portions of existing water supply watersheds;
 - (c) Sub-Item (3)(a) of 15A NCAC 02B .0214 through .0216 addressing waste discharge limitations; and
 - (d) Sub-Items (3)(c) through (3)(h) of 15A NCAC 02B .0214 through .0216 addressing aesthetic and human health standards.
- (7) **APPLICABILITY.** Types of parties responsible for implementing rules within the Jordan nutrient strategy and, as applicable, their geographic scope of responsibility, are identified in each rule. The specific local governments responsible for implementing Rules .0265, .0266, .0267, .0268, and .0273 shall be as follows:
- (a) Rules .0265, .0266, .0267, .0268, and .0273 shall be implemented by all incorporated municipalities, as identified by the Office of the Secretary of State, with planning jurisdiction within or partially within the Jordan watershed. Those municipalities currently are:
 - (i) Alamance;
 - (ii) Apex;
 - (iii) Burlington;
 - (iv) Carrboro;
 - (v) Cary;
 - (vi) Chapel Hill;
 - (vii) Durham;
 - (viii) Elon;
 - (ix) Gibsonville;
 - (x) Graham;
 - (xi) Green Level;
 - (xii) Greensboro;
 - (xiii) Haw River;
 - (xiv) Kernersville;
 - (xv) Mebane;
 - (xvi) Morrisville;
 - (xvii) Oak Ridge;
 - (xviii) Ossipee;
 - (xix) Pittsboro;
 - (xx) Pleasant Garden;
 - (xxi) Reidsville;
 - (xxii) Sedalia;
 - (xxiii) Stokesdale;
 - (xxiv) Summerfield; and
 - (xxv) Whitsett.

- (b) Rules .0265, .0266, .0267, .0268, and .0273 shall be implemented by the following counties for the portions of the counties where the municipalities listed in Sub-Item (7)(a) do not have an implementation requirement:
 - (i) Alamance;
 - (ii) Caswell;
 - (iii) Chatham;
 - (iv) Durham;
 - (v) Guilford;
 - (vi) Orange;
 - (vii) Rockingham; and
 - (viii) Wake.
- (c) A unit of government may arrange through interlocal agreement or other instrument of mutual agreement for another unit of government to implement portions or the entirety of a program required or allowed under any of the rules listed in Item (3) of this Rule to the extent that such an arrangement is otherwise allowed by statute. The governments involved shall submit documentation of any such agreement to the Division. No such agreement shall relieve a unit of government from its responsibilities under these Rules.
- (8) ADAPTIVE MANAGEMENT. The Division shall evaluate the effectiveness of the Jordan nutrient strategy after at least ten years following the effective date and periodically thereafter as part of the review of the *Cape Fear River Basinwide Water Quality Plan*. The Division shall base its evaluation on, at a minimum, trend analyses as described in the monitoring section of the *B. Everett Jordan Reservoir, North Carolina Nutrient Management Strategy and Total Maximum Daily Load*, and lake use support assessments. The Division may also develop additional watershed modeling or other source characterization work. Any nutrient response modeling and monitoring on which any recommendation for adjustment to strategy goals may be based shall meet the criteria set forth in GS. 143-215.1(c5), also known as the Clean Water Responsibility Act, and meet or exceed criteria used by the Division for the monitoring and modeling used to establish the goals in Item (5) of this Rule. Any modification to these rules as a result of such evaluations would require additional rulemaking.
- (9) LIMITATION. The Jordan nutrient strategy may not fully address significant nutrient sources in the Jordan watershed in that the rules do not directly address atmospheric sources of nitrogen to the watershed from sources located both within and outside of the watershed. As better information becomes available from ongoing research on atmospheric nitrogen loading to the watershed from these sources, and on measures to control this loading, the Commission may undertake separate rule making to require such measures it deems necessary from these sources to support the goals of the Jordan nutrient strategy.
- (10) ENFORCEMENT. Failure to meet requirements of Rules .0262, .0264, .0265, .0266, .0267, .0268, .0269, .0270, .0271, .0272 and .0273 of this Section may result in imposition of enforcement measures as authorized by G.S. 143-215.6A (civil penalties), G.S. 143-215.6B (criminal penalties), and GS. 143-215.6C (injunctive relief).

History Note: Authority G.S. 143-214.1; 143-214.5; 143-214.7; 143-215.1; 143-215.3(a)(1); 143-215.6A; 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;
 Eff. August 11, 2009;
 Amended Eff. September 1, 2011.

15A NCAC 02B .0263 JORDAN WATER SUPPLY NUTRIENT STRATEGY: DEFINITIONS

The following words and phrases, which are not defined in G.S. 143, Article 21, shall be interpreted as follows for the purposes of the Jordan nutrient strategy:

- (1) "Allocation" means the mass quantity of nitrogen or phosphorus that a discharger, group of dischargers, nonpoint source, or collection of nonpoint sources is assigned as part of a TMDL. For point sources, possession of allocation does not authorize the discharge of nutrients but is prerequisite to such authorization through a NPDES permit.
- (2) "Applicator" means the same as defined in 15A NCAC 02B .0202(4).
- (3) "Channel" means a natural water-carrying trough cut vertically into low areas of the land surface by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.
- (4) "DBH" means diameter at breast height of a tree measured at 4.5 feet above ground surface level.
- (5) "Delivered," as in delivered allocation, load, or limit, means the allocation, load, or limit that is measured or predicted at Jordan Reservoir. A delivered value is equivalent to a discharge value multiplied by the transport factor for that discharge location.
- (6) "Development" means the same as defined in 15A NCAC 02B .0202(23).
- (7) "Discharge," as in discharge allocation, load, or limit means the allocation, load, or limit that is measured at the point of discharge into surface waters in the Jordan watershed. A discharge value is equivalent to a delivered value divided by the transport factor for that discharge location.
- (8) "Ditch or canal" means a man-made channel other than a modified natural stream constructed for drainage purposes that is typically dug through inter-stream divide areas. A ditch or canal may have flows that are perennial, intermittent, or ephemeral and may exhibit hydrological and biological characteristics similar to perennial or intermittent streams.
- (9) "Ephemeral stream" means a feature that carries only stormwater in direct response to precipitation with water flowing only during and shortly after large precipitation events. An ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above the water table, and stormwater runoff is the primary source of water. An ephemeral stream typically lacks the biological, hydrological, and physical characteristics commonly associated with the continuous or intermittent conveyance of water.
- (10) "Existing development" means development, other than that associated with agricultural or forest management activities, that meets one of the following criteria:
 - (a) It either is built or has established a vested right based on statutory or common law as interpreted by the courts, for projects that do not require a state permit, as of the effective date of either local new development stormwater programs implemented under 15A NCAC 02B .0265 or, for projects requiring a state permit, as of the applicable compliance date established in 15A NCAC 02B .0271(5) and (6); or
 - (b) It occurs after the compliance date set out in Sub-Item (4)(d) of Rule .0265 but does not result in a net increase in built-upon area.
- (11) "Intermittent stream" means a well-defined channel that contains water for only part of the year, typically during winter and spring when the aquatic bed is below the water table. The flow may be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological and hydrological characteristics commonly associated with the continuous conveyance of water.
- (12) "Jordan nutrient strategy," or "Jordan water supply nutrient strategy" means the set of 15A NCAC 02B .0262 through .0273 and .0311(p).
- (13) "Jordan Reservoir" means the surface water impoundment operated by the US Army Corps of Engineers and named B. Everett Jordan Reservoir, as further delineated for purposes of the Jordan nutrient strategy in 15A NCAC 02B .0262(4).
- (14) "Jordan watershed" means all lands and waters draining to B. Everett Jordan Reservoir.
- (15) "Load" means the mass quantity of a nutrient or pollutant released into surface waters over a given time period. Loads may be expressed in terms of pounds per year and may be expressed as "delivered load" or an equivalent "discharge load."
- (16) "Load allocation" means the same as set forth in federal regulations 40 CFR 130.2(g), which is incorporated herein by reference, including subsequent amendments and editions. These regulations may be obtained at no cost from <http://www.epa.gov/lawsregs/search/40cfr.html> or from the U.S. Government Printing Office, 732 North Capitol St. NW, Washington D.C., 20401.

- (17) "Modified natural stream" means an on-site channelization or relocation of a stream channel and subsequent relocation of the intermittent or perennial flow as evidenced by topographic alterations in the immediate watershed. A modified natural stream must have the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.
- (18) "New development" means any development project that does not meet the definition of existing development set out in this Rule.
- (19) "Nitrogen" or "total nitrogen" means the sum of the organic, nitrate, nitrite, and ammonia forms of nitrogen in a water or wastewater.
- (20) "NPDES" means National Pollutant Discharge Elimination System, and connotes the permitting process required for the operation of point source discharges in accordance with the requirements of Section 402 of the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq.
- (21) "Nutrients" means total nitrogen and total phosphorus.
- (22) "Perennial stream" means a well-defined channel that contains water year round during a year of normal rainfall with the aquatic bed located below the water table for most of the year. Groundwater is the primary source of water for a perennial stream, but it also carries stormwater runoff. A perennial stream exhibits the typical biological, hydrological, and physical characteristics commonly associated with the continuous conveyance of water.
- (23) "Perennial waterbody" means a natural or man-made basin, including lakes, ponds, and reservoirs, that stores surface water permanently at depths sufficient to preclude growth of rooted plants. For the purpose of the State's riparian buffer protection program, the waterbody must be part of a natural drainage way (i.e., connected by surface flow to a stream).
- (24) "Phosphorus" or "total phosphorus" means the sum of the orthophosphate, polyphosphate, and organic forms of phosphorus in a water or wastewater.
- (25) "Stream" means a body of concentrated flowing water in a natural low area or natural channel on the land surface.
- (26) "Surface waters" means all waters of the state as defined in G.S. 143-212 except underground waters.
- (27) "Technical specialist" means the same as defined in 15A NCAC 06H .0102(9).
- (28) "Total Maximum Daily Load," or "TMDL," means the same as set forth in federal regulations 40 CFR 130.2(i) and 130.7(c)(1), which are incorporated herein by reference, including subsequent amendments and editions. These regulations may be obtained at no cost from <http://www.epa.gov/lawsregs/search/40cfr.html> or from the U.S. Government Printing Office, 732 North Capitol St. NW, Washington D.C., 20401.
- (29) "Total nitrogen" or "nitrogen" means the sum of the organic, nitrate, nitrite, and ammonia forms of nitrogen in a water or wastewater.
- (30) "Total phosphorus" or "phosphorus" means the sum of the orthophosphate, polyphosphate, and organic forms of phosphorus in a water or wastewater.
- (31) "Transport factor" means the fraction of a discharged nitrogen or phosphorus load that is delivered from the discharge point to Jordan Reservoir, as determined in an approved TMDL.
- (32) "Tree" means a woody plant with a DBH equal to or exceeding five inches or a stump diameter exceeding six inches.
- (33) "Wasteload" means the mass quantity of a nutrient or pollutant released into surface waters by a wastewater discharge over a given time period. Wasteloads may be expressed in terms of pounds per year and may be expressed as "delivered wasteload" or an equivalent "discharge wasteload."
- (34) "Wasteload allocation" means the same as set forth in federal regulations 40 CFR 130.2(h), which is incorporated herein by reference, including subsequent amendments and editions. These regulations may be obtained at no cost from <http://www.epa.gov/lawsregs/search/40cfr.html> or from the U.S. Government Printing Office, 732 North Capitol St. NW, Washington D.C., 20401.

History Note: Authority G.S. 143-214.1; 143-214.5; 143-214.7; 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. 2001-355; S.L. 2005-190; S.L. 2006-259; Eff. August 11, 2009.

15A NCAC 02B .0264 JORDAN WATER SUPPLY NUTRIENT STRATEGY: AGRICULTURE

This Rule sets forth a process by which agricultural operations in the Jordan watershed will collectively limit their nitrogen and phosphorus loading to the Jordan Reservoir, as prefaced in Rule 15A NCAC 02B .0262. This process is as follows:

- (1) **PURPOSE.** The purposes of this Rule are to achieve and maintain the percentage reduction goals defined in Rule 15A NCAC 02B .0262 for the collective agricultural loading of nitrogen and phosphorus from their respective 1997-2001 baseline levels, to the extent that best available accounting practices will allow. This Rule aims to achieve the goals set out in 15A NCAC 02B .0262 within six to nine years, as set out in Sub-Item (5)(b) of this Rule. Additionally this Rule will protect the water supply uses of Jordan Reservoir and of designated water supplies throughout the Jordan watershed.
- (2) **PROCESS.** This Rule requires accounting for agricultural land management practices at the county and subwatershed levels in the Jordan watershed, and implementation of practices by farmers in these areas to collectively achieve the nutrient reduction goals on a county and subwatershed basis. Producers may be eligible to obtain cost share and technical assistance from the NC Agriculture Cost Share Program and similar federal programs to contribute to their counties' nutrient reductions. A Watershed Oversight Committee, and if needed Local Advisory Committees, will develop strategies, coordinate activities, and account for progress.
- (3) **LIMITATION.** This Rule may not fully address significant nutrient sources relative to agriculture in that it does not directly address atmospheric sources of nitrogen to the Jordan watershed from agricultural operations located both within and outside of the Jordan watershed. As better information becomes available from ongoing research on atmospheric nitrogen loading to the Jordan watershed from these sources, and on measures to control this loading, the Commission may undertake separate rule-making to require such measures it deems necessary from these sources to support the goals of the Jordan Reservoir Nutrient Sensitive Waters Strategy.
- (4) **APPLICABILITY.** This Rule shall apply to all persons engaging in agricultural operations in the Jordan watershed, including those related to crops, horticulture, livestock, and poultry. This Rule applies to livestock and poultry operations above the size thresholds in this Item in addition to requirements for animal operations set forth in general permits issued pursuant to G.S. 143-215.10C. Nothing in this Rule shall be deemed to allow the violation of any assigned surface water, groundwater, or air quality standard by any agricultural operation, including any livestock or poultry operation below the size thresholds in this Item. This Rule does not require specific actions by any individual person or operation if the county or counties in which they conduct operations can collectively achieve their nutrient reduction targets, in the manner described in Item (5) of this Rule, within six years of the effective date of this Rule. For the purposes of this Rule, agricultural operations are activities that relate to any of the following pursuits:
 - (a) The commercial production of crops or horticultural products other than trees. As used in this Rule, commercial shall mean activities conducted primarily for financial profit.
 - (b) Research activities in support of such commercial production.
 - (c) The production or management of any of the following number of livestock or poultry at any time, excluding nursing young:
 - (i) 5 or more horses;
 - (ii) 20 or more cattle;
 - (iii) 20 or more swine not kept in a feedlot, or 150 or more swine kept in a feedlot;
 - (iv) 120 or more sheep;
 - (v) 130 or more goats;
 - (vi) 650 or more turkeys;
 - (vii) 3,500 or more chickens; or
 - (viii) Any single species of any other livestock or poultry, or any combination of species of livestock or poultry, that exceeds 20,000 pounds of live weight at any time.
- (5) **METHOD FOR RULE IMPLEMENTATION.** This Rule shall be implemented initially by a Watershed Oversight Committee and, if needed, through a cooperative effort between the Watershed Oversight Committee and Local Advisory Committees in each county. The membership, roles and responsibilities of these committees are set forth in Items (7) and (8) of this Rule. Committees' activities shall be guided by the following constraints:

- (a) Within three years after the effective date of this Rule, the Watershed Oversight Committee shall provide the Commission with an initial assessment of the extent to which agricultural operations in each subwatershed have achieved the nitrogen goals identified in Item (1) of this Rule through activities conducted since the baseline period. The Watershed Oversight Committee shall use the accounting process described in Items (7) and (8) of this Rule to make its assessment. Should the Commission determine at that time that a subwatershed nitrogen goal has not been achieved, then Local Advisory Committees shall be formed in that subwatershed according to Item (8) of this Rule to further progress toward the goal by developing local strategies to guide implementation.
 - (b) For any subwatershed identified in Sub-Item (5)(a) of this Rule as not having achieved its nitrogen goal within three years, the Commission shall within six years after the effective date of this Rule again determine, with input from the Watershed Oversight Committee, whether the subwatershed has achieved its nitrogen goal. Should the Commission determine at that time that a subwatershed has not achieved its goal, then it shall require additional best management practice (BMP) implementation as needed to ensure that the goal is met within nine years after the effective date of this Rule. The Commission may also consider alternative recommendations from the Watershed Oversight Committee based on its assessment of the practicability of agricultural operations meeting the subwatershed goal. Should the Commission require some form of individual compliance, then it shall also subsequently approve a framework proposed by the Watershed Oversight Committee for allowing producers to obtain credit through offsite measures. Such offsite measures shall meet the requirements of 15A NCAC 02B .0273(2) – (4). The Commission shall review compliance with the phosphorus goals within six years of the effective date and shall require additional BMP implementation within any subwatershed as needed to meet its goal within an additional three years from that date.
 - (c) Should a committee called for under Sub-Item (5)(a) of this Rule not form nor follow through on its responsibilities such that a local strategy is not implemented in keeping with Item (8) of this Rule, the Commission shall require all persons subject to this Rule in the affected area to implement BMPs as needed to meet the goals of this Rule.
- (6) **RULE REQUIREMENTS FOR INDIVIDUAL OPERATIONS.** Persons subject to this Rule shall adhere to the following requirements:
- (a) If the initial accounting required under Sub-Item (5)(a) of this Rule determines that agricultural operations have not already collectively met the nitrogen reduction goals, persons subject to this Rule shall register their operations with their Local Advisory Committee according to the requirements of Item (8) of this Rule within four years after the effective date of this Rule. Within six years after the effective date of this Rule, such persons are not required to implement any specific BMPs but may elect to contribute to the collective local nutrient strategy by implementing any BMPs they choose that are recognized by the Watershed Oversight Committee as nitrogen-reducing or phosphorus-reducing BMPs.
 - (b) Should a local strategy not achieve its goal after six years, operations within that local area may face specific implementation requirements, as described under Sub-Item (5)(b) of this Rule.
 - (c) Producers may generate nitrogen loading reduction credit for sale to parties subject to or operating under other nutrient strategy rules in the Jordan watershed under either of the following circumstances and only pursuant to the conditions of Sub-Item (7)(b)(vii) of this Rule and 15A NCAC 02B .0273:
 - (i) If the subwatershed in which they implement nitrogen-reducing practices has achieved its nitrogen goal.
 - (ii) At any point during the implementation of this Rule, a pasture-based livestock operation that implements an excluded buffer BMP on part or all of its operation may sell that portion of the nitrogen reduction credit attributed to the buffer restoration aspect of the practice, while the credit attributed to the exclusion aspect shall accrue to the achievement or maintenance of the goals of this Rule.

