15A NCAC 02B .0263 is adopted pursuant to 150B-21.5(a)(1) as follows:

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.

~~(13)~~(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.

~~(14)~~(12) "Jordan nutrient strategy," or "Jordan water supply nutrient strategy" means the set of 15A NCAC 02B .0262 through .0273 and .0311(p).

~~(15)~~(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).

~~(16)~~(14) "Jordan watershed" means all lands and waters draining to B. Everett Jordan Reservoir.

~~(17)~~(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."

~~(18)~~(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.

~~(19)~~(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.

~~(20)~~(18) "New development" means any development project that does not meet the definition of existing development set out in this Rule.

~~(21)~~(19) "Nitrogen" or "total nitrogen" means the sum of the organic, nitrate, nitrite, and ammonia forms of nitrogen in a water or wastewater.

~~(22)~~(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.

~~(23)~~(21) "Nutrients" means total nitrogen and total phosphorus.

~~(24)~~(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.

~~(25)~~(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).

~~(26)~~(24) "Phosphorus" or "total phosphorus" means the sum of the orthophosphate, polyphosphate, and organic forms of phosphorus in a water or wastewater.

~~(27)~~(25) "Stream" means a body of concentrated flowing water in a natural low area or natural channel on the land surface.

~~(28)~~(26) "Surface waters" means all waters of the state as defined in G.S. 143-212 except underground waters.

~~(29)~~(27) "Technical specialist" means the same as defined in 15A NCAC 06H .0102(9).

~~(30)~~(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.

~~(31)~~(29) "Total nitrogen" or "nitrogen" means the sum of the organic, nitrate, nitrite, and ammonia forms of nitrogen in a water or wastewater.

~~(32)~~(30) "Total phosphorus" or "phosphorus" means the sum of the orthophosphate, polyphosphate, and organic forms of phosphorus in a water or wastewater.

~~(33)~~(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.

~~(34)~~(32) "Tree" means a woody plant with a DBH equal to or exceeding five inches or a stump diameter exceeding six inches.

~~(35)~~(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."

~~(36)~~(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.*
Amended Eff. Sept 1, 2011.