

1 **15A NCAC 02B .0263 was published in 21:24 NCR 2265 as parts of Rules 15A NCAC 02B .0262-.0272.**

2 **Note: In response to staff recommendations, parts of 15A NCAC 02B rules have been combined into one rule,**
3 **thereby creating this rule. The original Rule 15A NCAC 02B .0263 has been renumbered as Rule 15A NCAC**
4 **02B .0272.**

5
6 **15A NCAC 02B .0263 JORDAN WATER SUPPLY NUTRIENT STRATEGY: DEFINITIONS**

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

- 9 (1) “Allocation” means the mass quantity of nitrogen or phosphorus that a discharger, group of
10 dischargers, nonpoint source, or collection of nonpoint sources is ~~potentially allowed to release~~
11 ~~either to surface waters, expressed as “discharge allocation”, or to an arm of Jordan Reservoir,~~
12 ~~expressed as “delivered allocation”-assigned as part of a TMDL.~~ For point sources, possession of
13 allocation does not authorize the discharge of nutrients but is prerequisite to such authorization
14 through a NPDES permit.
- 15 (2) “Applicator” means the same as defined in Rule 15A NCAC 2B .0202(4).
- 16 (3) “Channel” means a natural water-carrying trough cut vertically into low areas of the land surface
17 by erosive action of concentrated flowing water or a ditch or canal excavated for the flow of water.
- 18 (4) ‘DBH’ means diameter at breast height of a tree measured at 4.5 feet above ground surface level.
- 19 (5) “Delivered,” as in delivered allocation, load, or limit, means the allocation, load, or limit that is
20 measured or predicted at Jordan Reservoir. A delivered value is equivalent to a discharge value
21 multiplied by the transport factor for that discharge location.
- 22 (6) “Development” means the same as defined in Rule 15A NCAC 2B .0202(23).
- 23 (7) “Discharge,” as in discharge allocation, load, or limit means the allocation, load, or limit that is
24 measured at the point of discharge into surface waters in the Jordan watershed. A discharge value
25 is equivalent to a delivered value divided by the transport factor for that discharge location.
- 26 (8) “Ditch or canal” means a man-made channel other than a modified natural stream constructed for
27 drainage purposes that is typically dug through inter-stream divide areas. A ditch or canal may
28 have flows that are perennial, intermittent, or ephemeral and may exhibit hydrological and
29 biological characteristics similar to perennial or intermittent streams.
- 30 (9) “Ephemeral stream” means a feature that carries only stormwater in direct response to
31 precipitation with water flowing only during and shortly after large precipitation events. An
32 ephemeral stream may or may not have a well-defined channel, the aquatic bed is always above
33 the water table, and stormwater runoff is the primary source of water. An ephemeral stream
34 typically lacks the biological, hydrological, and physical characteristics commonly associated with
35 the continuous or intermittent conveyance of water.
- 36 (10) “Existing development” means development, other than that ~~directly~~ associated with agricultural
37 or forest management activities, that meets one of the following criteria:

- 1 (a) It either is built or has established a vested right based on statutory or common law as
2 interpreted by the courts, under North Carolina zoning law for projects that do not require
3 a state permit, as of the effective date of either local new development stormwater
4 programs implemented under Rule 15A NCAC 2B .0265 or, for projects requiring a state
5 permit, as of the applicable compliance date established in Rule 15A NCAC 2B .0271(5)
6 and ~~(6)(6); or A vested right shall be based on at least one of the following criteria:~~
7 ~~(i) Substantial expenditure of resources (time, labor, money) based on a good faith~~
8 ~~reliance upon having received a valid state or local government approval to~~
9 ~~proceed with the project; or~~
10 ~~(ii) Having either an outstanding valid building permit or an approved site specific or~~
11 ~~phased development plan in compliance with G.S. 153A 344.1 or G.S. 160A 385.1; or~~
12 (b) It occurs after ~~one of~~ the compliance dates set out in Sub-Item ~~(3)(a) of this~~
13 Rule(4)(d) of Rule .0265 but ~~is not subject to the requirements referenced there, such as~~
14 redevelopment that does not yield result in a net increase in built-upon area.

- 15 (11) “Intermittent stream” means a well-defined channel that contains water for only part of the year,
16 typically during winter and spring when the aquatic bed is below the water table. The flow may
17 be heavily supplemented by stormwater runoff. An intermittent stream often lacks the biological
18 and hydrological characteristics commonly associated with the continuous conveyance of water.
- 19 (12) “Jordan nutrient strategy,” or “Jordan water supply nutrient strategy” means the set of Rules 15A
20 NCAC 2B .0262 through .0273 and .0311(p).
- 21 (13) “Jordan Reservoir” means the surface water impoundment operated by the US Army Corps of
22 Engineers and named B. Everett Jordan Reservoir, as further delineated for purposes of the Jordan
23 nutrient strategy in Rule 15A NCAC 2B .0262(4).
- 24 (14) “Jordan watershed” means all lands and waters draining to B. Everett Jordan Reservoir.
- 25 (15) “Load” means the mass quantity of a nutrient or pollutant released into surface waters over a given
26 time period. Loads may be expressed in terms of pounds per year and may be expressed as
27 “delivered load” or an equivalent “discharge load.”
- 28 (16) “Load allocation” means the same as set forth in federal regulations 40 CFR 130.2(g), which is
29 incorporated herein by reference, including subsequent amendments and editions. These
30 regulations may be obtained at no cost from <http://www.epa.gov/lawsregs/search/40cfr.html> or
31 from the U.S. Government Printing Office, 732 North Capitol St. NW, Washington D.C., 20401.
- 32 (17) “Modified natural stream” means an on-site channelization or relocation of a stream channel and
33 subsequent relocation of the intermittent or perennial flow as evidenced by topographic alterations
34 in the immediate watershed. A modified natural stream must have the typical biological,
35 hydrological, and physical characteristics commonly associated with the continuous conveyance
36 of water.

- 1 (18) “New development” means any development project that does not meet the definition of existing
2 development set out in this Rule.
- 3 (19) “Nitrogen” or “total nitrogen” means the sum of the organic, nitrate, nitrite, and ammonia forms of
4 nitrogen in a water or wastewater.
- 5 (20) “NPDES” means National Pollutant Discharge Elimination System, and connotes the permitting
6 process required for the operation of point source discharges in accordance with the requirements
7 of Section 402 of the Federal Water Pollution Control Act, 33 U.S.C. Section 1251 et seq.
- 8 (21) “Nutrients” means total nitrogen and total phosphorus.
- 9 (22) “Perennial stream” means a well-defined channel that contains water year round during a year of
10 normal rainfall with the aquatic bed located below the water table for most of the year.
11 Groundwater is the primary source of water for a perennial stream, but it also carries stormwater
12 runoff. A perennial stream exhibits the typical biological, hydrological, and physical
13 characteristics commonly associated with the continuous conveyance of water.
- 14 (23) “Perennial waterbody” means a natural or man-made watershed, basin, including lakes, ponds, and
15 reservoirs, that stores surface water permanently at depths sufficient to preclude growth of rooted
16 plants, plants, including lakes, ponds, sounds, non-stream estuaries and ocean. For the purpose of
17 the State’s riparian buffer protection program, the waterbody must be part of a natural drainage
18 way (i.e., connected by surface flow to a stream).
- 19 (24) “Phosphorus” or “total phosphorus” means the sum of the orthophosphate, polyphosphate, and
20 organic forms of phosphorus in a water or wastewater.
- 21 (25) “Stream” means a body of concentrated flowing water in a natural low area or natural channel on
22 the land surface.
- 23 (26) “Surface waters” means all waters of the state as defined in G.S. 143-212 except underground
24 waters.
- 25 (27) “Technical specialist” means the same as defined in Rule 15A NCAC 6H .0102(9).
- 26 (28) “Total Maximum Daily Load,” or “TMDL,” means the same as set forth in federal regulations 40
27 CFR 130.2(i) and 130.7(c)(1), which are incorporated herein by reference, including subsequent
28 amendments and editions. These regulations may be obtained at no cost from
29 <http://www.epa.gov/lawsregs/search/40cfr.html> or from the U.S. Government Printing Office, 732
30 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
32 of nitrogen in a water or wastewater.
- 33 (30) “Total phosphorus” or “phosphorus” means the sum of the orthophosphate, polyphosphate, and
34 organic forms of phosphorus in a water or wastewater.
- 35 (31) “Transport factor” means the fraction of a discharged~~total~~ nitrogen or ~~total~~ phosphorus load that is
36 delivered from a specific~~the~~ discharge point to Jordan Reservoir, as determined in an approved
37 TMDL.

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

3 (33) "Wasteload" means the mass quantity of a nutrient or pollutant released into surface waters by a
4 wastewater discharge over a given time period. Wasteloads may be expressed in terms of pounds
5 per year and may be expressed as "delivered wasteload" or an equivalent "discharge wasteload."

6 (34) "Wasteload allocation" means the same as set forth in federal regulations 40 CFR 130.2(h), which
7 is incorporated herein by reference, including subsequent amendments and editions. These
8 regulations may be obtained at no cost from <http://www.epa.gov/lawsregs/search/40cfr.html> or
9 from the U.S. Government Printing Office, 732 North Capitol St. NW, Washington D.C., 20401.
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12 *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;
13 143-215.6C; 143 215.8B; 143B-282(c); 143B-282(d); S.L. 2001-355; S.L. 2005-190; [S.L. 2006-](#)
14 [259](#);
15 *Eff. July 1, 2008.*