

1 15A NCAC 02B ~~.0263.0272~~ is adopted with changes as published in 21:24 NCR 2262-2265 as follows

2 **Note:** This Rule was originally published as 15A NCAC 02B .0263. Due to recommendations by the Rules
3 Review Commission staff, the original Rule 15A NCAC 02B .0272 has been renumbered as Rule 15A NCAC
4 02B .0269.

5
6 **15A NCAC 02B ~~.0263.0272~~ JORDAN WATER SUPPLY NUTRIENT STRATEGY: ~~NUTRIENT~~**
7 **MANAGEMENT~~FERTILIZER MANAGEMENT~~**

8 The following is the management strategy for controlling land-applied nutrients in the Jordan watershed, as prefaced
9 in Rule .0262 of this Section.

- 10 (1) PURPOSE. The purpose of this Rule is to protect the water supply uses of Jordan Reservoir and
11 of designated water supplies throughout the Jordan watershed by managing the application of
12 nutrients, both inorganic fertilizer and organic nutrients, to lands in the Jordan watershed.~~This~~
13 ~~rule requires nutrient application in keeping with the most current state recognized technical~~
14 ~~guidance on proper nutrient management in order to contribute to the loading reduction goals~~
15 ~~established in Rule .0262 of this Section.~~ The requirements of this Rule are to be fully
16 implemented within ~~five~~three years from the effective ~~date.~~ date as set out in Item (6) of this Rule.

17 ~~(2)DEFINITIONS. The following definitions shall apply to terms used in this Rule.~~

- 18 ~~(a)'Applicator' means a person or the immediate supervisor who applies nutrients to the land~~
19 ~~including fertilizer, bio solids, and compost.~~
20 ~~(b)'Consultant' means a person who is hired to provide professional advice to another person.~~
21 ~~(b) 'Commercial applicator' means an applicator hired to apply nutrients to land the~~
22 ~~applicator does not own or lease.~~

23 ~~(3)(2)~~ APPLICABILITY. This Rule shall apply to the application of nutrients on:~~following persons:~~

- 24 (a) ~~Persons who own or manage~~ Cropland areas in the Jordan watershed for commercial
25 purposes;
26 (b) ~~Persons who own or manage~~ Commercial ornamental and floriculture areas and
27 greenhouse production areas in the Jordan watershed;
28 (c) ~~Persons who own or manage~~ Golf courses, ~~grassed~~ public recreational lands, ~~grassed~~ road
29 or utility rights-of-way, or other commercial or institutional lands ~~totaling where any~~
30 such land, or combination of such lands, under common management in the watershed
31 totals at least five acres;~~acres in size in the Jordan watershed;~~ and
32 (d) ~~Persons hired to apply nutrients to the lands described in Sub Items (a) through (c) above~~
33 ~~or to residential, commercial, industrial or institutional properties in the Jordan~~
34 ~~watershed, if the total area of the properties served exceeds 10 acres. This Rule shall not~~
35 ~~apply to residential, commercial, or industrial landowners who apply nutrients to their~~
36 ~~own property.~~ Any lands in the Jordan watershed where a hired applicator, as defined in

1 Rule 15A NCAC 2B .0202(4), who does not own or lease the lands applies nutrients to a
2 total of at least five acres per year.

3 ~~(e)Nutrient management consultants hired by persons listed in this Item to provide nutrient~~
4 ~~management advice for lands in the Jordan watershed.~~

5 (4)(3) REQUIREMENTS. Persons to whom this Rule applies shall meet Application of nutrients to lands
6 subject to this Rule shall be in accordance with the following requirements:

7 (a) ~~Any person subject to this rule who applies nutrients to, or who is hired to provide~~
8 ~~nutrient management advice for, land in the Jordan watershed shall either:Application~~
9 ~~shall be made either:~~

10 (i) By an applicator who has Attend and complete-completed nutrient management
11 training pursuant to Item ~~(5)(4)~~ of this Rule; or

12 (ii) Complete and properly implement-Pursuant to a nutrient management plan ~~for~~
13 ~~all lands to which they apply or manage the application of nutrients, or for~~
14 ~~which they provide nutrient management advice, pursuant to that meets the~~
15 requirements of Item ~~(6)(5)~~ of this Rule.

16 (b) ~~A-With the exception of residential homeowners, a Persons-person~~ who ~~hire-hires~~ an
17 applicator to apply nutrients to the land that they own or manage in the Jordan watershed
18 shall either:

19 (i) ~~-Ensure that the applicator they hire has attended and completed nutrient~~
20 ~~management training pursuant to Item (5)(4) of this Rule; or~~

21 (ii) Ensure that the applicator they hire ~~has completed and follows~~ a nutrient
22 management plan that has been developed for the land that they own or manage
23 pursuant to Item ~~(6)(5)~~ of this Rule.Rule; or

24 ~~(iii) Complete a nutrient management plan for the land that they own or manage~~
25 ~~pursuant to Item (6) of this Rule and ensure that the applicator they hire follows~~
26 ~~this plan.~~

27 (5)(4) NUTRIENT MANAGEMENT TRAINING. Persons who choose to meet this Rule's
28 requirements by completingTo demonstrate compliance with this Rule through the nutrient
29 management training option, the applicator shall must shall meet the following requirements.

30 ~~(a)Persons subject to this Rule as of its effective date shall have a certificate indicating completion~~
31 of ~~complete~~ training provided by either the Cooperative Extension Service or the
32 ~~DivisionDivision. Training certificates shall be kept on-site or be produced within 24 hours of a~~
33 ~~request by the Division, and obtain a certificate from the training entity to that effect within five~~
34 ~~years from the effective date of this Rule.~~ Training shall be sufficient to provide participants with
35 an understanding of the value and importance of proper management of nitrogen and phosphorus,
36 and the water quality impacts of poor nutrient management, and the ability to understand and
37 properly carry out a nutrient management plan.

1 ~~(a) Persons who become subject to this Rule after its effective date shall complete the training~~
2 ~~provided by either the Cooperative Extension Service or the Division and obtain a~~
3 ~~certificate to that effect from the training entity within one year from the date that they~~
4 ~~become subject verifying completion of training that addresses the elements identified in~~
5 ~~Sub Item (5)(a).~~

6 ~~(b) Persons who fail to obtain the nutrient management certificate within the required timeframes~~
7 ~~or who are found by the Director to have knowingly failed to follow nutrient management~~
8 ~~requirements as referenced in Sub Items (6)(a)(i) through (6)(a)(iii) of this Rule shall~~
9 ~~develop and properly implement nutrient management plans pursuant to Item (6) of this~~
10 ~~Rule.~~

11 ~~(c) Training certificates must be kept on site or be produced within 24 hours of a request by the~~
12 ~~Division.~~

13 (6)(5) NUTRIENT MANAGEMENT PLANS. Persons who choose to meet this Rule's requirements by
14 completing and To demonstrate compliance with this Rule based on implementing
15 implementation of a nutrient management plan, the plan Nutrient management plans developed
16 to comply with this rule shall meet the following requirements:

17 ~~(a) Persons who are subject to this Rule as of its effective date and persons who become subject to~~
18 ~~this Rule after its effective date shall develop and implement a nutrient management plan~~
19 ~~that meets the following standards within five years of the effective date or within six~~
20 ~~months from the date that they become subject, whichever is later.~~

21 ~~(i)(a)~~ Nutrient management plans for eropl and cropland, excluding those for application of
22 Class A bulk, and Class B wastewater residuals, regulated under Subchapter 15A NCAC
23 02T .1100 and septage application regulated under 15A NCAC 13B .0815 through .0829,
24 shall meet the standards and specifications adopted by the NC Soil and Water
25 Conservation Commission, including those found in 15A NCAC 06E .0104 and 15A
26 NCAC 06H .0104, which are incorporated herein by reference, including any subsequent
27 amendments and additions editions to such rules that are in place at the time that plans are
28 approved by a technical specialist as required under Sub-Item ~~(6)(b)(5)(d)(5)(e)~~ of this
29 Rule.

30 (b) Nutrient management plans for application of Class A bulk, and Class B, wastewater
31 residuals regulated under Subchapter 15A NCAC 02T .1100 and septage application
32 regulated under 15A NCAC 13B .0815 through .0829 shall meet the standards and
33 specifications adopted by the NC Soil and Water Conservation Commission in rule 15A
34 NCAC 06E .0104, including any subsequent amendments and editions to such rule that
35 are in place at the time that plans are approved by the permitting agency. This
36 compliance includes addressing the phosphorus requirements of US Department of

Agriculture Natural Resources Conservation Service Practice Standard 590 regarding Nutrient Management.

(ii)(c) Nutrient management plans for ~~turfgrass lands identified in Sub-Item (2)(c) of this Rule~~ shall follow the applicable guidance contained in the most recent version of North Carolina Cooperative Extension Service ~~guidelines in publications~~ “Water Quality and Professional Lawn Care” (NCCES publication number ~~WQMM-155~~WQWM-155), “Water Quality and Home Lawn Care” (NCCES publication number ~~WQMM-154~~WQWM-151), or “Water Quality for Golf Course Superintendents and Professional Turf Managers” (NCCES publication number ~~AG-623~~WQWM-156 Revised) as appropriate for the activity. The above-referenced guidelines ~~related to turfgrass~~ are hereby incorporated by reference including any subsequent amendments and editions. Copies may be obtained from the Division of Water Quality, 512 North Salisbury Street, Raleigh, North Carolina 27604 at no cost. Nutrient management plans ~~for turfgrass~~ may also follow other guidance distributed by land-grant universities for turfgrass management as long as it is equivalent to or more stringent than the above-listed guidelines.

(iii)(d) Nutrient management plans for ~~nursery crops and greenhouse ornamental and floriculture~~ production shall follow the Nutrient Management section of the most recent version of the Southern ~~Nurserymen’s Nursery~~ Association guidelines promulgated in “Best Management Practices – A BMP Guide For Producing Container and Field Grown Plants”. Copies may be obtained from the Southern ~~Nurserymen’s Nursery~~ Association, ~~400 Johnson Road, Road SE, Suite E-130, 4-100, Marietta, Atlanta, GA 30068-2400~~ 1827 Powers Ferry Road, Road SE, Suite E-130, 4-100, Marietta, Atlanta, GA 30068-2400 ~~30339-8422 or from www.sna.org. at a cost of thirty five dollars (\$35.00).~~ The materials related to nutrient management plans for ~~nursery crops and greenhouse ornamental and floriculture~~ production are hereby incorporated by reference including any subsequent amendments and editions. Copies are available for inspection at the Department of Environment and Natural Resources Library, 512 North Salisbury Street, Raleigh, North Carolina 27604. Nutrient management plans for ~~nursery crops and greenhouse ornamental and floriculture~~ production may also follow other guidance distributed by land-grant universities for such production as long as it is equivalent or more stringent than the above-listed guidelines.

(b)(e) ~~The person who writes~~ The nutrient management plan shall ~~have the plan be~~ approved in writing by an appropriate technical ~~specialists~~ specialist, as defined in Rule 15A NCAC 6H .0102(9), as follows:

- (i) Nutrient management plans for cropland using either inorganic or organic ~~nutrients~~ nutrients, except those using biosolids or septage, shall be approved by a technical specialist designated pursuant to the process and criteria specified in

1 rules adopted by the Soil and Water Conservation Commission for nutrient
2 management planning, including ~~Rules~~Rule 15A NCAC 06H .0104, excepting
3 Sub-Item (a)(2) of that Rule.

4 ~~_____~~ Nutrient management plans for lands identified in Sub-Item (2)(c) of this
5 Rule, turfgrass, nursery crops and greenhouse ornamental and floriculture
6 production shall be approved by a technical specialist designated by the Soil
7 and Water Conservation Commission pursuant to the process and criteria
8 specified in 15A NCAC 06H .0104 excepting Sub-Item (a)(2) of that Rule. If
9 the Soil and Water Conservation Commission does not designate such technical
10 specialists, then the Environmental Management Commission shall do so using
11 the same process and criteria.

12 ~~(e)(f)~~ Persons with approved waste utilization plans that are required under state or federal
13 animal waste regulations are deemed in compliance with this Rule as long as they are
14 compliant with their approved waste utilization plans.

15 ~~(d)(g)~~ Nutrient management plans and supporting documents must be kept on-site or be
16 produced within 24 hours of a request by the Division.

17 (6) COMPLIANCE. ~~Persons who fail to comply with this Rule are subject to enforcement measures~~
18 ~~authorized in G.S. 143-215.6A (civil penalties), G.S. 143-215.6B (criminal penalties), and G.S.~~
19 ~~143-215.6C (injunctive relief).~~ The following constitute the compliance requirements of this Rule:

20 (a) For proposed new application of Class A bulk, and Class B, wastewater residuals
21 pursuant to permits obtained under Subchapter 15A NCAC 02T .1100 or its predecessor,
22 and septage application pursuant to permits obtained under 15A NCAC 13B .0815
23 through .0829, all applications for new permits shall be made according to, and
24 subsequent nutrient applications shall comply with, the applicable requirements of this
25 Rule as of its effective date.

26 (b) For existing, ongoing application of residuals and septage as defined in this Item,
27 beginning one year after the effective date of this Rule, all applications for renewal of
28 existing permits shall be made according to, and subsequent nutrient applications shall
29 comply with, the applicable requirements of this Rule.

30 (c) For all other application with the exception of the application of residuals and septage as
31 defined in this Item, the requirements of this Rule shall become effective three years after
32 its effective date and shall apply to all application of nutrients on lands subject to this
33 Rule after that date.

34 (d) Persons who fail to comply with this Rule are subject to enforcement measures
35 authorized in G.S. 143-215.6A (civil penalties), G.S. 143-215.6B (criminal penalties),
36 and G.S. 143-215.6C (injunctive relief).

1 *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;
2 143-215.6C; ~~143B-282(d); 143 215.8B; 143-215.8B(b);~~ 143B-282(c); 143B-282(d); S.L. 2005-
3 190; S.L. 2006-259;
4 *Eff. July 1, 2008.*