

1 15A NCAC 02B ~~.0269~~.0273 is adopted with changes as published in 21:24 NCR 2296-2297 as follows:

2 Note: This Rule was originally published as 15A NCAC 02B .0269.

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4 15A NCAC 02B ~~.0269~~.0273 JORDAN WATER SUPPLY NUTRIENT STRATEGY: OPTIONS FOR
5 OFFSETTING NUTRIENT LOADS

6 PURPOSE. This Rule provides parties (~~buyers~~) subject to other rules within the Jordan nutrient strategy with
7 options for meeting rule requirements by obtaining or buying credit for activities conducted by others (sellers) that
8 produce excess load reductions relative to rule requirements. It provides the potential for parties who achieve excess
9 load reductions to recover certain costs by selling such credits, and it provides opportunity for private parties to
10 produce reductions and sell credits for profit. Overall it provides the potential for more cost-effective achievement
11 of strategy reduction goals. Accounting is required to ensure and track the availability and use of trading credits.
12 This accounting will be compared against compliance accounting required under other rules of the Jordan nutrient
13 strategy. This ~~offset option~~Rule furthers the adaptive management intent of the strategy to protect the water supply
14 uses of Jordan Reservoir and of designated water supplies throughout the Jordan watershed. ~~Certain buyers shall~~
15 meet minimum criteria identified in other rules before utilizing the offset option outlined in this Rule, as detailed in
16 Item (1) of this Rule. The minimum requirements for these offset options are:

- 17 (1) PREREQUISITES. The following buyers shall meet applicable criteria identified here and in rules
18 imposing reduction requirements on them before utilizing the option outlined in this Rule; The
19 following parties shall first meet minimum criteria identified in the following sections of rules
20 pertaining to them:
- 21 (a) Agriculture Rule .0264: Agricultural producers ~~Producers~~ shall first meet standard BMP
22 requirements as set forth in Section (7) unless superseded by a Commission approved
23 alternative strategy after two or five years as set forth in Section (5); receive approval
24 from the Watershed Oversight Committee to obtain offsite credit pursuant to the
25 conditions of Sub-Item (5)(b);
 - 26 (b) New Development Rule .0265: ~~developers~~ Developers shall meet onsite reduction
27 requirements enumerated in ~~Section Sub-Item (3)(a)(vii); (3)(a)(vii)~~ before obtaining
28 offsite credit;
 - 29 (c) Wastewater Rule .0270: New and expanding dischargers shall first make all reasonable
30 efforts to obtain allocation from existing dischargers as stated in ~~Sections Sub-Items~~
31 ~~(6)(a)(ii); (7)(a)(ii)~~ and (8)(a)(ii), respectively; and
 - 32 (d) State and Federal Entities Stormwater Rule ~~.0271, .0271; non-DOT~~
 - 33 (i) Non-DOT entities shall meet onsite new development reduction requirements
34 enumerated in ~~Section Sub-Item (3)(a)(vi); (3)(a)(vi)~~; and
 - 35 (ii) NC DOT shall meet onsite non-road new development reduction requirements
36 enumerated in Sub-Item (4)(c)(iii) before obtaining offsite credit.

- 1 (2) The party seeking approval to sell excess loading ~~reductions (credits)~~reduction credits pursuant to
2 this Rule shall demonstrate to the Division that such reductions meet the following criteria:
- 3 (a) Loading reductions eligible for credit are only those in excess of load reduction goals or
4 percentage reductions required under ~~Rule .0262~~rules in this Section or in excess of the
5 percentage load reduction goals established in Rule .0262 of this strategy as applied to
6 sources not addressed by rules in this ~~strategy~~section;
- 7 (b) Load reductions eligible for credit shall not include reductions achieved under other
8 regulations to mitigate or offset actions that increase nutrient loading;
- 9 ~~(b)(c)~~ (c) These excess loading reductions shall be available as credit only within the same
10 subwatershed of the Jordan watershed, as defined in Rule .0262 of this Section, as the
11 reduction need that they propose to offset;
- 12 ~~(c)(d)~~ (d) The party seeking to sell ~~excess loading reductions~~credits shall define the nature of the
13 activities that would produce ~~those excess~~ reductions and define the magnitude and
14 duration of those reductions to the Division, including addressing the following items:
- 15 (i) Account for differences in instream nutrient losses between the location of the
16 reduction need and excess loading reduction in reaching the affected arm of
17 Jordan ~~Reservoir~~Reservoir;
- 18 (ii) Quantify and account for the relative uncertainties in reduction need estimates
19 and excess loading reduction ~~estimates~~estimates;
- 20 (iii) Ensure that excess loading reductions shall take place at the time and for the
21 duration in which the reduction need ~~occurs~~occurs; and
- 22 (iv) Demonstrate means adequate for assuring the achievement and claimed duration
23 of excess loading reduction, including the cooperative involvement of any other
24 involved parties.
- 25 (3) The party seeking approval to sell excess loading reductions ~~pursuant to this Rule~~ shall provide
26 for accounting and tracking methods that ensure genuine, accurate, and verifiable achievement of
27 the purposes of this Rule. The Division shall work cooperatively with interested parties at their
28 request to develop such accounting and tracking methods to support the requirements of Item (2)
29 of this Rule.
- 30 (4) Proposals for use of offsetting actions as described in this Rule shall become effective after
31 determination by the Director that the proposal contains adequate scientific or engineering
32 standards or procedures necessary to achieve and account for load ~~reductions~~reductions as
33 required under Sub-Items (2) and (3) of this Rule, and that specific accounting tools required for
34 these purposes in individual rules have been adequately established. In making this determination,
35 the Director shall also evaluate the potential for excess loading to produce localized adverse water
36 quality impacts that contribute to impairment of classified uses of the affected waters.

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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; 143-
2 215.6C; ~~143B-282(d)~~; 143-214.12; 143-214.21; [143 215.8B](#); ~~143-215.8B(b)~~; 143B-282(c); 143B-
3 282(d); S.L. 1999; c. 329, s. 7.1; S.L. 2005-190; [S.L. 2006-259](#);
4 *Eff. July 1, 2008.*