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

PURPOSE. This Rule provides parties subject to other rules within the Jordan nutrient strategy with options for meeting rule requirements by obtaining or buying credit for activities conducted by others (sellers) that produce excess load reductions relative to rule requirements. It provides the potential for parties who achieve excess load reductions to recover certain costs by selling such credits, and it provides opportunity for private parties to produce reductions and sell credits for profit. Overall it provides the potential for more cost-effective achievement of strategy reduction goals. Accounting is required to ensure and track the availability and use of trading credits. This accounting will be compared against compliance accounting required under other rules of the Jordan nutrient strategy. This Rule furthers the adaptive management intent of the strategy to protect the water supply uses of Jordan Reservoir and of designated water supplies throughout the Jordan watershed. The minimum requirements for these offset options are:

(1) PREREQUISITES. The following buyers shall meet applicable criteria identified here and in rules imposing reduction requirements on them before utilizing the option outlined in this Rule:
- (a) Agriculture Rule .0264: Agricultural producers shall receive approval from the Watershed Oversight Committee to obtain offsite credit pursuant to the conditions of Sub-Item (5)(b);
- (b) New Development Rule .0265: Developers shall meet onsite reduction requirements enumerated in Sub-Item (3)(a)(vii) before obtaining offsite credit;
- (c) Wastewater Rule .0270: New and expanding dischargers shall first make all reasonable efforts to obtain allocation from existing dischargers as stated in Sub-Items (7)(a)(ii) and (8)(a)(ii), respectively; and
- (d) State and Federal Entities Stormwater Rule .0271:
  - (i) Non-DOT entities shall meet onsite new development reduction requirements enumerated in Sub-Item (3)(a)(vi); and
  - (ii) NC DOT shall meet onsite non-road new development reduction requirements enumerated in Sub-Item (4)(c)(iii) before obtaining offsite credit.

(2) The party seeking approval to sell excess loading reduction credits pursuant to this Rule shall demonstrate to the Division that such reductions meet the following criteria:
- (a) Loading reductions eligible for credit are only those in excess of load reduction goals or percentage reductions required under rules in this Section or in excess of the percentage load reduction goals established in Rule .0262 of this strategy as applied to sources not addressed by rules in this section;
- (b) Load reductions eligible for credit shall not include reductions achieved under other regulations to mitigate or offset actions that increase nutrient loading;
- (c) These excess loading reductions shall be available as credit only within the same subwatershed of the Jordan watershed, as defined in Rule .0262 of this Section, as the reduction need that they propose to offset;
- (d) The party seeking to sell credits shall define the nature of the activities that would produce excess reductions and define the magnitude and duration of those reductions to the Division, including addressing the following items:
  - (i) Account for differences in instream nutrient losses between the location of the reduction need and excess loading reduction in reaching the affected arm of Jordan Reservoir;
  - (ii) Quantify and account for the relative uncertainties in reduction need estimates and excess loading reduction estimates;
  - (iii) Ensure that excess loading reductions shall take place at the time and for the duration in which the reduction need occurs; and
  - (iv) Demonstrate means adequate for assuring the achievement and claimed duration of excess loading reduction, including the cooperative involvement of any other involved parties.

(3) The party seeking approval to sell excess loading reductions shall provide for accounting and tracking methods that ensure genuine, accurate, and verifiable achievement of the purposes of this Rule. The Division shall work cooperatively with interested parties at their request to develop such accounting and tracking methods to support the requirements of Item (2) of this Rule.

(4) Proposals for use of offsetting actions as described in this Rule shall become effective after determination by the Director that the proposal contains adequate scientific or engineering standards or

procedures necessary to achieve and account for load reductions as required under Sub-Items (2) and (3) of this Rule, and that specific accounting tools required for these purposes in individual rules have been adequately established. In making this determination, the Director shall also evaluate the potential for excess loading to produce localized adverse water quality impacts that contribute to impairment of classified uses of the affected waters.

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; 143-214.12; 143-214.21; 143 215.8B; 143B-282(c); 143B-282(d); S.L. 1999; c. 329, s. 7.1; S.L. 2005-190; S.L. 2006-259;*
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