

## SECTION .0700 – NUTRIENT MANAGEMENT STRATEGY RULES FOR SURFACE WATERS

### 15A NCAC 02B .0701 NUTRIENT STRATEGIES DEFINITIONS

In this Section, the following terms shall mean:

- (1) "Agricultural uses" include the use of waters for stock watering, irrigation, and other farm purposes.
- (2) "Allocation" means the mass quantity, as of nitrogen or phosphorus that a discharger, group of dischargers, or other source is potentially allowed to release into surface waters. Allocations may be expressed as delivered or discharge quantities. Possession of allocation does not authorize the discharge of nutrients but is prerequisite to such authorization in an NPDES permit.
- (3) "Best Management Practice" or "BMP" means the same as defined in Rule .0202 of this Subchapter.
- (4) "Buffer" means the same as defined in Rule .0202 of this Subchapter.
- (5) "Built-upon area" means the same as defined in G.S. 143-214.7(b2).
- (6) "Concentration(s)" means the same as defined in Rule .0202 of this Subchapter.
- (7) "Contiguous" means the same as defined in Rule .0202 of this Subchapter.
- (8) "Critical area" means the same as defined in Rule .0202 of this Subchapter.
- (9) "Cropland" means agricultural land that is used for growing corn, grains, oilseed crops, cotton, forages, tobacco, beans, or other vegetables or fruits.
- (10) "Delivered" as in delivered allocation, load, or limit, means that portion of the allocation, load, or limit that is estimated to be transported from a nutrient source or discharge to a waterbody. A delivered value equals the corresponding discharge value multiplied by its assigned transport or delivery factor.
- (11) "Development" means the same as defined in G.S. 143-214.7.
- (12) "Director" means the Director of the Division.
- (13) "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. A discharge value is equivalent to a delivered value divided by the transport factor for that discharge location.
- (14) "Division" means the Division of Water Resources of the North Carolina Department of Environmental Quality.
- (15) "DMS" means the N.C. Division of Mitigation Services. DMS, as administrator of the Riparian Buffer Restoration Fund, is the only in-lieu fee program to which rules of this Section apply.
- (16) "Estuarine Nutrient Strategy" means the Neuse Nutrient Strategy as enumerated in Rule .0710 of this Section and the Tar-Pamlico Nutrient Strategy as set forth in Rule .0730 of this Section.
- (17) "Estuary allocation" means the mass loading of total nitrogen or total phosphorus at the estuary that is reserved for a discharger or group of dischargers. A discharger's or group's estuary allocation is equivalent to its discharge allocation multiplied by its assigned transport factor.
- (18) "Existing development" means structures and other land modifications resulting from development activities, other than those associated with agricultural or forest management activities, that meet the following criteria:
  - (a) For projects that do not require a State permit, they are in place or have established a vested right to construct relative to the effective date of the applicable local stormwater ordinance implemented pursuant to a new development stormwater rule of this Section; and
  - (b) For projects that require a State permit, they are in place before the effective date established in the applicable State and federal entities stormwater rule of this Section.
- (19) "Fertilizer" means the same as defined in Rule .0202 of this Subchapter.
- (20) "Industrial discharge(s)" for the purpose of the nutrient strategy rules of this Section, means the discharge of industrial process treated wastewater or wastewater other than sewage. Stormwater shall not be considered to be an industrial wastewater unless it is contaminated with industrial wastewater. Industrial discharge includes:
  - (a) Wastewater resulting from any process of industry or manufacture, or from the development of any natural resource; or
  - (b) Wastewater resulting from processes of trade or business, including wastewater from laundromats and car washes, but not wastewater from restaurants.
- (21) "Land-disturbing activity" means the same as defined in Rule .0202 of this Subchapter.

- (22) "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."
- (23) "Load allocation" means the same as set forth in 40 CFR 130.2(g), which is incorporated herein by reference, including subsequent amendments and editions. A copy of the most current version of the regulations is available free of charge on the internet at <http://www.gpo.gov/fdsys/>.
- (24) "Local government" means the same as defined in Rule .0202 of this Subchapter.
- (25) "MGD" means million gallons per day.
- (26) "Nitrogen" means total nitrogen unless specified otherwise.
- (27) "Nonpoint source load allocation" is that portion of an approved total maximum daily load (TMDL) or calibrated nutrient response model assigned to all other nitrogen sources in the basin other than individually permitted wastewater facilities and represents the maximum allowable load of total nitrogen or total phosphorus to a waterbody from these nonpoint sources.
- (28) "Nonpoint source pollution" means the same as defined in Rule .0202 of this Subchapter.
- (29) "Non-wasting endowment" is a fund that generates enough interest to cover the cost of perpetual monitoring and enforcement of a nutrient reduction by a perpetual steward.
- (30) "NPDES" means National Pollutant Discharge Elimination System, and includes 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.
- (31) "Nutrients" means the combination of total nitrogen and total phosphorus for the purpose of the nutrient rules of this section.
- (32) "Nutrient Offset Bank" is a site at which a nutrient offset project is implemented by a provider and approved for nutrient offset credit by the Division through execution of a nutrient offset banking instrument. This term does not include nutrient offset projects associated with an in-lieu fee program.
- (33) "Nutrient Offset Banking Instrument" is a written legal agreement between the Division and the provider that governs the establishment, operation, and use of a nutrient offset bank.
- (34) "Nutrient Offset Project" is a nutrient reduction project that is implemented for the purpose of generating nutrient offset credit.
- (35) "Nutrient Reduction Practice" is any project type or type of programmatic effort that generates a quantifiable or estimated decrease in nutrient loading, and for which practice design standards and load reduction estimation methods have been approved in rule or by the Division.
- (36) "Nutrient Reduction Project" is a site-specific installation and implementation of a nutrient reduction practice or combination of practices.
- (37) "Nutrient Sensitive Waters" means the same as defined or classified in Rule .0223 of this Subchapter.
- (38) "Permanent Nutrient Offset Credit" is a nutrient load reduction credit that does not automatically expire. Permanent nutrient offset credits account for permanent nutrient load reductions resulting from permanently installed and maintained nutrient reduction practices. Permanent nutrient offset credits may be used for compliance with new development stormwater rules of this Subchapter and may also satisfy other nutrient load reduction requirements as described in this Subchapter. Nutrient offset credits are expressed in pounds of total nitrogen or total phosphorus per year.
- (39) "Perpetual Steward" means an entity that provides oversight for a permanent nutrient offset project. "Oversight" for the purposes of this Item includes monitoring and enforcement responsibilities assumed by the steward and approved by the Division as a condition of granting permanent nutrient offset credit.
- (40) "Phosphorus" means total phosphorus unless specified otherwise.
- (41) "Provider" means any public or private person or entity that implements a nutrient reduction project and seeks nutrient offset credit for sale, lease, or conveyance in exchange for remuneration, including DMS.
- (42) "Release" of nutrient offset credits means the Division approves and acknowledges the generation of nutrient offset credits. Nutrient offset bank providers may sell, transfer, or use credits upon release. DMS may debit credits upon project institution but credits will still be subject to final approval and release by DWR.
- (43) "Residuals" means the same as defined in Rule .0202 of this Subchapter.
- (44) "Stormwater Collection System" means the same as defined in 15A NCAC 02H .1002.

- (45) "Stormwater Control Measure" or "SCM" means the same as defined in 15A NCAC 02H .1002.
- (46) "Surface waters" means all waters of the State as defined in G.S. 143-212, except underground waters.
- (47) "Term Nutrient Offset Credit" is a nutrient load reduction credit that accounts for annual nutrient load for a finite period of time. Temporary nutrient offset credits are expressed in pounds of total nitrogen or total phosphorus.
- (48) "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. A copy of the most current version of the regulations is available free of charge on the internet at <http://www.gpo.gov/fdsys/>.
- (49) "Total nitrogen" means the sum of the organic, nitrate, nitrite, and ammonia forms of nitrogen in a water or wastewater.
- (50) "Total phosphorus" means the sum of the orthophosphate, polyphosphate, and organic forms of phosphorus in a water or wastewater.
- (51) "Transportation facility" means the existing road surface, road shoulders, fill slopes, ferry terminal fill areas, and constructed stormwater conveyances or drainage canals adjacent to and directly associated with the road.
- (52) "Transport factor" means the fraction of a discharged nitrogen or phosphorus load that is delivered from the discharge point to a waterbody as established in an approved TMDL or other Division publication.
- (53) "Wasteload allocation" is that portion of a nitrogen or phosphorus TMDL assigned to individually permitted wastewater facilities and represents the maximum allowable load of total nitrogen or total phosphorus to the estuary from these point source dischargers.

*History Note: Authority G.S. 143-214.1; 143-214.3; 143-214.5; 143-214.7; 143-215.1; 143-215.3; 143-215.3(a)(1); 143-215.8B; 143B-282(c); 143B-282(d); Eff. April 1, 2020.*