15A NCAC 02B .0733 IS AMENDED AS PUBLISHED IN 39:13 NCR 784 WITH CHANGES AS FOLLOWS:

15A NCAC 02B .0733 TAR-PAMLICO NUTRIENT STRATEGY: WASTEWATER DISCHARGE REQUIREMENTS ~~NEW AND EXPANDING WASTEWATER DISCHARGER REQUIREMENTS~~

The following is the National Pollutant Discharge Elimination System (NPDES) wastewater discharge management strategy for ~~new and expanding wastewater dischargers in~~ the Tar-Pamlico River basin:

(1) Purpose. The purpose of this Rule is to establish minimum nutrient control requirements for ~~new and expanding~~ point source discharges in the Tar-Pamlico River Basin in order to maintain or restore water quality in the Pamlico Estuary and protect its designated uses.

(2) Applicability. This Rule applies to all discharges from wastewater treatment facilities in the Tar-Pamlico River Basin that receive nitrogen- or phosphorus-bearing wastewater and are required to obtain individual NPDES permits. ~~This Rule applies to Tar Pamlico Basin Association member facilities on or after June 1, 2025. This Rule applies to other facilities upon this Rule's effective date.~~

(3) Definitions. The terms used in this Rule, in regard to point source dischargers, treatment facilities, wastewater flows or discharges, or like matters, shall be as defined in Rule .0701 of this Section and as [~~follows:~~] follows; except that if the terms conflict, the terms in this Rule shall control:

(a) [~~"Active Allocation"~~] "Tar-Pamlico Active Allocation" means that portion of an allocation that has been applied toward and is expressed as a nutrient [~~limit~~] Tar-Pamlico limit in an individual NPDES [~~permit.~~] permit for a discharger in the Tar-Pamlico River Basin;

(b) "Association" means the Tar-Pamlico Basin Association, a not-for-profit corporation consisting of NPDES-permitted dischargers in the Tar-Pamlico River Basin; established voluntarily by its members to work cooperatively to meet the aggregate Total Nitrogen [~~TN~~] (TN) and Total Phosphorus [~~TP~~] (TP) allocations originally established in the Tar-Pamlico Nutrient TMDL and subsequently in the group permit.

(c) "Commission" means the North Carolina Environmental Management Commission.

~~(a)~~(d) "Existing" means that which obtained an NPDES permit on or before December 8, 1994.

~~(b)~~(e) "Expanding" means that which increases beyond its permitted flow as defined in Sub-Item (4)(h) ~~Item (4)~~ of this Rule.

(f) [~~"Limit"~~] "Tar-Pamlico Limit" means the mass quantity of nitrogen or phosphorus that a discharger or group of dischargers is authorized through an NPDES permit to release into surface waters of the Tar-Pamlico River Basin.

~~(c)~~(g) "New" means [~~that~~] a facility which had not obtained an NPDES permit on or before December 8, 1994.

~~(4)~~ (h) "Permitted flow" means the maximum monthly average flow authorized in a facility's NPDES permit as of December 8, 1994.

(i) ["~~"Reserve Allocation"~~"] "Tar-Pamlico Reserve Allocation" means allocation that is held by a permittee or other person but that has not been applied toward and is not expressed as a nutrient [~~limit~~] Tar-Pamlico limits in an individual NPDES [~~permit.~~] permit of a discharger in the Tar-Pamlico River Basin;

(4) This Item specifies the total combined end of pipe nitrogen and phosphorus discharge allocation for existing Association point source dischargers.

(a) Unless revised as provided for in Items (7) through (9) of this Rule, in accordance with the Nitrogen and Phosphorus TMDL for the Tar-Pamlico River Estuary, approved in 1995 by the US Environmental Protection Agency (EPA), the total [~~active~~] Tar-Pamlico active allocations for nitrogen and phosphorus discharge [~~allocations~~] for Association point source dischargers shall not exceed 891,271 in pounds of nitrogen and 161,070 pounds of phosphorus per calendar year. The nutrient loads discharged annually by these point sources shall not exceed these nitrogen and phosphorus discharge allocations plus any nutrient offset credits obtained in accordance with G.S. 143-214.26 and Rule .0703 of this Section. In the event the Association's allocations are revised as provided for in Items (7) through (9) of this Rule, the NPDES group permit shall be modified to reflect those changes to the [~~active~~] Tar-Pamlico active allocations for nitrogen and phosphorus discharge mass allocations and [~~limits~~] Tar-Pamlico limits set forth in this Rule.

(b) The Commission shall [~~order future revisions in~~] revise the Nitrogen and Phosphorus TMDL and nitrogen and phosphorus discharge allocations whenever necessary to ensure that water quality in the estuary meets all applicable standards in 15A NCAC 02B .0200 or to conform with applicable State or federal requirements.

(5) This Item specifies the individual nitrogen and phosphorus discharge allocations for existing Association point source dischargers in accordance with the 1995 TMDL.

(a) Unless revised through permit modifications as provided for in Items (7) through (9) of this Rule, the following individual discharge mass allocations for total nitrogen and total phosphorus shall apply in conformance with the values in Item (4) of this Rule:

		Mass Allocations (pounds/year)	
Facility Name	NPDES No.	Total Nitrogen	Total Phosphorus
Belhaven Wastewater Treatment Plant (WWTP)	NC0026492	14,261	2,577
Bunn WWTP	NC0042269	4,278	773
Enfield WWTP	NC0025402	14,261	2,577
Franklin County WWTP	NC0069311	42,784	7,732
[~~Greenville~~] Greenville Utilities Commission WWTP	NC0023931	249,576	45,103
Louisburg WWTP	NC0020231	19,538	3,531
Oxford WWTP	NC0025054	49,915	9,021

Pinetops WWTP	NC0020435	4,278	773
Robersonville WWTP	NC0026042	25,671	4,639
[~~Rocky Mount~~] Tar River Regional WWTP	NC0030317	299,491	54,124
Scotland Neck WWTP	NC0023337	9,626	1,740
Spring Hope WWTP	NC0020061	5,705	1,031
Tarboro WWTP	NC0020605	71,307	12,887
Warrenton WWTP	NC0020834	28,523	5,155
Washington WWTP	NC0020648	52,054	9,407
Association Total WWTP			
[~~Active Allocation~~] Tar-Pamlico Active Allocation		891,271	161,070
[~~Allocation in Reserve~~] Tar-Pamlico Reserve Allocation		59,798	3,898

(b) In the event that the nitrogen and phosphorus TMDL and their discharge allocations for point sources are revised, as provided in [~~Item (4)~~] Sub-Item (4)(b) of this Rule, the Commission shall apportion the revised load among the existing facilities and shall revise discharge allocations. [~~allocations as needed~~.] The Commission [~~may~~] shall consider [~~such factors as:~~] factors, including:

(i) fate and transport of nitrogen and phosphorus in the river basin;

(ii) technical feasibility and economic reasonableness of source reduction and treatment methods;

(iii) economies of scale;

(iv) nitrogen and phosphorus control measures already implemented;

(v) probable need for growth and expansion; and

(vi) incentives for nutrient management planning, utilities management, resource protection, and cooperative efforts among dischargers.

~~(5)~~(6) This Item specifies nutrient controls for new facilities.

(a) ~~Proposed new wastewater dischargers~~ New facilities proposing to discharge wastewater shall evaluate all practical alternatives to surface water discharge pursuant to 15A NCAC 02H .0105(c)(2) prior to submitting an application to discharge.

(b) New facilities shall document in their permit application that they have acquired some combination of the following allocations and offsets sufficient to meet the annual [~~limits~~] Tar-Pamlico limits required elsewhere in this Item for the proposed discharge:

(i) nitrogen and phosphorus allocations from existing dischargers;

(ii) [~~reserve allocation~~] Tar-Pamlico reserve allocation pursuant to Sub-Item (c) of this Item; and

(iii) nitrogen and phosphorus offset credits pursuant to Rule .0703 of this Section.

Allocation and offset credits shall be sufficient for no less than 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(c).

(c) New facilities proposing to use any portion of the [~~reserve allocation~~] Tar-Pamlico reserve allocation described in Sub-Item (5)(a) of this Rule shall submit a written request to the Division for approval of the proposed use. The request shall include concurrence for its use by the Association.

~~(b)~~(d) New facilities shall meet ~~The~~ technology-based nitrogen and phosphorus discharge [~~limits~~] Tar-Pamlico limits that shall not exceed the following: ~~for a new facility shall not exceed:~~

(i) For facilities treating municipal or domestic wastewater, the mass load equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP at the monthly average flow limit in the facility's NPDES permit; and

(ii) For facilities treating industrial wastewater, the mass load equivalent to the best available technology economically achievable, calculated at the monthly average flow limit in the facility's NPDES permit.

~~(c) Proposed new dischargers submitting an application shall acquire nutrient allocation from existing dischargers or nutrient offset credits pursuant to Rule .0703 of this Section for the mass load dictated by this Item. The allocation and offset credits shall be sufficient for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(c).~~

~~(d) The Director shall not issue a permit authorizing discharge from a new facility unless the applicant has satisfied the requirements of Sub-Items (a), (c), and (e) of this Item. If a facility's permit contains tiered flow limits for expansion, the Director shall not authorize an increased discharge unless the applicant has satisfied the requirements of Sub-Items (a), (c), and (e) of this Item.~~

(e) Subsequent applications for permit renewal or, where an existing permit will contain tiered [~~limits,~~] Tar-Pamlico limits requests to discharge at an increased flow, shall demonstrate that the facility has sufficient nitrogen and phosphorus allocation or offset credits to meet its effluent nutrient [~~limitations~~] Tar-Pamlico limitations for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at ~~the proposed~~ an increased design flow rate in accordance with 15A NCAC 02H .0112(c).

(f) The Director shall not issue a permit authorizing discharge from a new facility unless the applicant has satisfied the requirements of Sub-Items (a) through (d) of this Item. If a facility's permit contains tiered flow [~~limits~~] Tar-Pamlico limits for expansion, the Director shall not authorize an increased discharge unless the applicant has satisfied the same requirements of this Item.

~~(f)~~(g) The Director shall establish more stringent [~~limits~~] Tar-Pamlico limits for nitrogen or phosphorus upon finding that such [~~limits~~] Tar-Pamlico limits are necessary to protect water quality standards in localized [~~areas.~~] areas, in accordance with G.S. 143-215.1.

~~(6)~~(7) This Item specifies nutrient controls for expanding facilities.

(a) Expanding facilities shall evaluate all practical alternatives to surface water discharge pursuant to 15A NCAC 02H .0105(c)(2) prior to submitting an application to discharge.

(b) The nitrogen and phosphorus discharge [~~limits~~] Tar-Pamlico limits for expanding non-Association facilities shall be assigned in accordance with the following:

(i) Expanding non-Association municipal or domestic wastewater facilities requesting permitted flows greater or equal to 0.1 MGD shall be assigned the mass equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP at the monthly average flow limit in the facility's NPDES permit; and

(ii) Expanding non-Association facilities treating industrial wastewater shall be assigned the mass load equivalent to the best available technology economically achievable, calculated at the monthly average flow limit in the facility's NPDES permit.

(c) An expanding facility that is a member of the Association, as defined in Sub-Item (3)(b) of this Rule, shall not exceed the nitrogen and phosphorus loads equivalent to its [~~active allocations~~] Tar-Pamlico active allocations unless they receive Division approval for an increase in their discharge as described in this Item.

(d) Facilities submitting application for increased discharge or, where an existing permit will contain tiered [~~limits,~~] Tar-Pamlico limits for authorization to discharge at an increased flow, may acquire nitrogen and phosphorus allocations from existing dischargers or nitrogen and phosphorus offset credits pursuant to Rule .0703 of this Section, or may acquire [~~reserve allocation~~] Tar-Pamlico reserve allocation in compliance with Sub-Item (e) of this Item for the proposed discharge. The acquired allocations and offset credits, combined with any preexisting allocations, shall be sufficient to meet its effluent nutrient [~~limits~~] Tar-Pamlico limits as established in this item for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at an increased design flow rate in accordance with 15A NCAC 02H .0112(c).

(e) A facility that submits an application to increase its discharge may request approval from the Division to use a portion of the [~~reserve allocation~~] Tar-Pamlico reserve allocation described in Sub-Item (5)(a) of this Rule. Approval shall be based on the following criteria:

(i) The expanding facility demonstrates that upon expansion their nitrogen and phosphorus discharge would not exceed the mass load equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP, calculated at the monthly average flow limit in the facility's NPDES permit;

(ii) The expanding facility requesting use of [~~reserve allocation~~] Tar-Pamlico reserve allocation has received written approval from the Association.

(iii) Should the facility cease to discharge, the portion of the [~~reserve allocation~~] Tar-Pamlico reserve allocation that was activated shall revert back to [~~reserve allocation~~] Tar-Pamlico reserve allocation; and

(f) The Director shall not issue an NPDES permit authorizing increased discharge from an existing facility unless the applicant has satisfied the requirements of Sub-Items (a) through (e) of this Item. If a facility's permit contains tiered flow limits for expansion, the Director shall not authorize discharge at an increased flow unless the applicant has satisfied the same requirements of this Item.

~~(f)~~(g) The Director shall modify an expanding facility's permit to establish more stringent [~~limits~~] Tar-Pamlico limits for nitrogen or phosphorus upon finding that such [~~limits~~] Tar-Pamlico limits are necessary to protect water quality standards in localized areas.

~~(b) The nitrogen and phosphorus discharge limits for an expanding facility shall not exceed the greater of loads equivalent to its active allocation and offset credit, or the following technology-based mass limits:~~

~~(i) For facilities treating municipal or domestic wastewater, the mass equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP at the monthly average flow limit in the NPDES permit; and~~

~~(ii) For facilities treating industrial wastewater, the mass load equivalent to the best available technology economically achievable, calculated at the monthly average flow limit in the facility's NPDES permit.~~

~~(c) Facilities submitting application for increased discharge or, where an existing permit contains tiered flow limits, for authorization to discharge at an increased flow, shall acquire or demonstrate contractual agreement to acquire, prior to authorization to discharge at the increased flow, nutrient allocation from existing dischargers or nutrient offset credits pursuant to Rule .0703 of this Section for the proposed discharge above 0.5 million gallons per day (MGD). The allocation and offset credits shall be sufficient to meet its effluent nutrient limitations for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(c).~~

~~(d) The Director shall not issue a permit authorizing increased discharge from an existing facility unless the applicant has satisfied the requirements of Sub-Items (a), (c), and (e) of this Item. If a facility's permit contains tiered flow limits for expansion, the Director shall not authorize discharge at an increased flow unless the applicant has satisfied the requirements of Sub-Items (a), (c), and (e) of this Item.~~

~~(e) Subsequent applications for permit renewal shall demonstrate that the facility has sufficient nitrogen allocation or offset credits to meet its effluent nutrient limitations for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(c).~~

~~(g) Existing wastewater dischargers expanding to greater than 0.5 MGD design capacity may petition the Director for an exemption from Sub-Items (a) through (c) and (e)~~ (a), (b), (d), ~~and (e)~~ of this Item ~~upon meeting and maintaining all of the following conditions:~~

~~(i) The facility has reduced its annual average TN and TP loading by 30 percent from its annual average 1991 TN and TP loading. Industrial facilities may alternatively demonstrate that nitrogen and phosphorus are not part of the waste stream above background levels.~~

~~(ii) The expansion does not result in annual average TN or TP loading greater than 70 percent of the 1991 annual average TN or TP load. Permit limits shall be established to ensure that the 70 percent load is not exceeded.~~

(8) This Item describes the option for dischargers to form a group compliance association or join an existing group compliance association, to collectively meet nitrogen and phosphorus load [~~limits.~~] Tar-Pamlico limits.

(a) Any or all facilities within the basin may form a group compliance association or join an existing group compliance association, to meet nitrogen and phosphorus [~~limits~~] Tar-Pamlico limits collectively. Any new association formed shall apply for and shall be subject to an NPDES group permit that establishes the effective total nitrogen and phosphorus [~~limits~~] Tar-Pamlico limits for the association and for its members. More than one group compliance association may be established. No facility may be a co-permittee member of more than one association formed pursuant to this Rule at any given time.

(b) An association may modify its membership at any time upon notification to the Division. The Division shall adjust the nitrogen and phosphorus allocations and [~~limits~~]Tar-Pamlico limits in the NPDES group permit to reflect the change in membership.

(c) No later than 180 days prior to coverage under a new NPDES group permit, or expiration of an existing group permit, the association and its members shall submit an application for an NPDES permit for the discharge of total nitrogen and total phosphorus to the surface waters of the Tar-Pamlico River Basin. The NPDES group permit shall be issued to the association and its members as co-permittees.

(d) An association's [~~limit~~] Tar-Pamlico limit of total nitrogen and total phosphorus shall be the sum of its members' individual allocations and nutrient offset credits plus any other allocation and offset credits obtained by the association or its members pursuant to this Rule.

(e) An association and its members may reapportion their individual allocations and nutrient offset credits on an annual basis. The NPDES group permit shall be modified to reflect the revised individual allocations and [~~limits.~~] Tar-Pamlico limits.

(f) If an association does not meet its [~~limits~~] Tar-Pamlico limits in any year, it shall obtain or use existing nutrient offset credits in accordance with G.S. 143-214.26 and Rule .0703 of this Section to offset its mass exceedance no later than July 1 of the following year.

(g) An association's members shall be deemed compliant with the permit [~~limits~~] Tar-Pamlico limits for total nitrogen and total phosphorus contained in their individually issued NPDES permits while they are members in an association. An association's members shall be deemed compliant with their individual [~~limits~~] Tar-Pamlico limits in the NPDES group permit in any year in which the association is in compliance with its [~~limits~~] Tar-Pamlico limits. If the association exceeds its group [~~limit,~~] Tar-Pamlico limit, the association and any members that exceed their individual [~~limits~~] Tar-Pamlico limits in the NPDES group permit shall be deemed to be out of compliance with the group permit.

(h) Upon the termination of a group compliance association, members of the association shall be subject to the [~~limits~~] Tar-Pamlico limits and other nutrient requirements of their individual NPDES permits.

(9) If an NPDES-permitted discharger or association of dischargers accepts wastewater from another NPDES-permitted treatment facility in the Tar-Pamlico River Basin and that acceptance results in the elimination of the discharge from that other treatment facility, the eliminated facility's total nitrogen and phosphorus allocations shall be transferred into the receiving facility's NPDES permit and added to its allocations.

History Note: *Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); 143-215.8B; 143B-282;*
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