

Adopted by the UNRBA Board of Directors Feb. 16, 2011;  
Amended Nov. 20, 2013; Amended March 17, 2021; Amended March 16, 2022

## **UPPER NEUSE RIVER BASIN ASSOCIATION, INC. BYLAWS**

### **ARTICLE I – IDENTITY**

These are the Bylaws of the Upper Neuse River Basin Association, Inc. (“Bylaws”), a North Carolina non-profit corporation hereinafter referred to as the “Association”, the Articles of Incorporation (“Articles”) of which have been filed with the North Carolina Secretary of State. The Upper Neuse River Basin Association, Inc. also operates under the assumed name of the Falls Lake Watershed Association.

### **ARTICLE II – OFFICES**

The initial principal office of the Association shall be located at P.O. Box 370, Butner, North Carolina 27509. The Association may have such other offices, either within or without the State of North Carolina, as the Board of Directors may designate or as the business of the Association may require from time to time.

The registered office of the Association required by the North Carolina Nonprofit Corporation Act (the “Nonprofit Act”) to be maintained in the State of North Carolina may be, but need not be, identical with the principal office of the Association, and the address of the registered office may be changed from time to time by the Association.

### **ARTICLE III – ORGANIZATION**

The Association shall be a nonprofit organization (i) established and operated in accordance with the provisions of 26 U.S.C. (the “Internal Revenue Code”) Section 501(c)(3) and the regulations thereunder, and (ii) incorporated under the Nonprofit Act. The Association shall be an independent and autonomous organization. Its period of duration shall be perpetual unless terminated in accordance with Article XIII below.

### **ARTICLE IV – PURPOSES**

The purposes for which the Association is established and shall operate are as follows:

1. The Association is organized and shall be operated exclusively for purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code; provided, however, that no part of the net earnings thereof shall inure to the benefit of any private shareholder or individual. Notwithstanding any other provision of these Bylaws, the Association shall not carry on any activities not permitted to be carried on by an organization described in Internal Revenue Code Sections 501(c)(3).

The Association is organized and shall operate exclusively as a non-profit corporation to assist its member local governments in their efforts to jointly address issues of concern to the member local governments relating to water quality and waste water management in the Upper Neuse River Basin and the Falls Lake Watershed. Consistent with the provisions in North Carolina General Statutes §§77-119 through 77-121, the purposes of the Association include, but are not limited to: (a) providing a forum for sharing information in order to assist local governments in complying with

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State and Federal laws that pertain to the water quality in the Falls Lake Watershed; (b) providing a mechanism for participating local governments to coordinate and fund common technical resources; (c) planning for and conducting water quality monitoring in the Falls Lake Watershed in coordination with the Department of Environment and Natural Resources; (d) coordinating with the Department of Environment and Natural Resources in the development of a transparent and accessible system for recording and maintaining nutrient offsets and credits that complies with any rules adopted to protect and restore water quality in the Falls Lake Watershed; (e) providing a public forum to review and discuss innovative approaches to restore, protect, and maintain water quality in the Falls Lake Watershed; (f) conducting and evaluating scientific research that describes or predicts conditions related to or affecting water quality in the Falls Lake Watershed, including the reservoir; and (g) providing a compliance group for participating local governments for the purpose of complying with the Joint Compliance Option as established in the Model Program for Existing Development Stormwater approved by the Environmental Management Commission.

In addition, the Association, as directed by its board of directors, may advocate on behalf of its members for changes in legislation, rules, or administrative policy related to or affecting the Falls Lake Watershed, may engage in other activities otherwise allowed by law that relate in any way to water quality and wastewater management in the Falls Lake Watershed, and may conduct and exercise all powers, rights and privileges granted to non-profit corporations under the Nonprofit Act; provided, however, that the Association shall not engage in any activity authorized by this provision that would jeopardize the federal income tax exemption of the Association under Section 501(c)(3) of the Internal Revenue Code.

2. The Association is organized and shall operate exclusively for the aforesaid purposes, and in connection therewith its scope of activities shall include accepting, buying, selling, owning, holding, operating, mortgaging, insuring, pledging, assigning, transferring or otherwise receiving or disposing of real and personal property; provided, however, that the Association shall not engage in any activity authorized by this provision that would jeopardize the federal income tax exemption of the Association under Section 501(c)(3) of the Internal Revenue Code.

3. The Board of Directors may authorize, amend or restate operating guidelines, plans, practices, procedures, and rules and regulations from time to time in order to effectively implement the purposes of the Association.

## **ARTICLE V – FINANCES**

The Association shall raise funds by the collection and receipt of membership dues, gifts of money and property, grants, contributions, donations, bequests, and receipts for services performed; provided, however, that all such funds must be accepted by the Board of Directors on behalf of the Association.

All funds collected and received by the Association, together with the income therefrom shall be deposited, held, retained, managed and conserved in a capital fund (or funds) and administered, used and applied by the Association in the sole discretion of the Board of Directors in accordance with the purposes described in Article IV of these Bylaws and the Articles and as provided in Article VI. The Board of Directors may accept revenues and properties that are qualified, conditioned, limited or

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restricted in their use; provided, however, that such qualifications, conditions, limitations and restrictions shall not conflict with the purposes of the Association set forth in these Bylaws and the Articles. Unless otherwise specifically required, such restricted revenues and/or property may be mingled with other funds of the Association.

Membership dues for services provided shall be determined as follows:

1. Dues. Members shall pay annually to the Association an amount in accordance with the current dues formula attached as Attachment A.
2. Dues Proration for New Members. New Members joining after July 1 of any year shall pay prorated dues for their first year of membership based on the number of quarters of such year in which they were a Member.
3. Dues Changes. The Board of Directors shall determine what, if any, changes shall be made in the dues formula effective as of July 1 during subsequent years. Any changes made to the dues schedule will be reflected in Attachment A.
4. Compliance Group Dues. Members participating in the Compliance Group shall pay annually to the Association an amount set by the Board of Directors to pay for the expenses anticipated to be incurred for administrative support of the Compliance Group Committee. Compliance Group Dues will be assessed using the dues formula in Attachment A, adjusted to include only the participating members.

Special assessments may be made for undertaking special initiatives or projects from time to time subject to approval of the Directors. No special assessment will be due and payable for 180 days unless it is approved unanimously by all of the Directors in attendance at a properly noticed and called meeting at which a quorum of the Directors is present. Any special assessment made for undertaking a Compliance Group project will be determined by the unanimous vote of all Compliance Group Directors (as defined below) participating in the Special Project and shall be due and payable as set forth in the approval of the special assessment. The budget for each Special Project shall include any funding necessary for the management of the project.

The fiscal year of the Association shall end on June 30 of each calendar year unless otherwise determined by the Board of Directors.

## **ARTICLE VI – APPLICATION AND USE OF FUNDS**

Revenues received by the Association shall be held in an account (or accounts) in the name of the Association in such location(s) as may be designated by the Board of Directors. The Association shall hold, manage, invest and reinvest its funds in accordance with the investment policies of the Association and shall collect and receive the income therefrom. After deducting all necessary expenses incident to the operation and administration of the Association, such funds shall be utilized in accordance with the purposes set forth in these Bylaws and the Articles. The Board of Directors may establish a committee of Directors for the purpose of supervising and managing investments. All such revenues

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received and held by the Association shall be distributed to such persons and in such amounts as the Board of Directors of the Association shall deem appropriate in keeping with the purposes of the Association.

The Association shall be solely responsible for the application and use of its assets, including payment of its expenses in accordance with such operating guidelines as may be established by the Board of Directors, and shall operate as an independent and autonomous entity for the purposes of meeting its financial obligations.

Notwithstanding any other provision of these Bylaws, no expenditure shall be made in any manner or for any purpose whatsoever that may jeopardize the status of the Association as an organization under Section 501(c)(3) of the Internal Revenue Code and the regulations thereunder.

## **ARTICLE VII – BOARD OF DIRECTORS**

7.1. General Powers. The business and affairs of the Association shall be managed under the direction of its Board of Directors, which is vested with the powers and authority to do and perform all acts and functions not inconsistent with law, the Articles and these Bylaws.

The Board of Directors shall be responsible for attainment of the objectives specified in the Articles and the Bylaws. Specifically, the Board of Directors shall be responsible for the governance, maintenance, operation, and conduct of the affairs of the Association, and the financial oversight of the Association, including, but not limited to, the preparation and implementation of an annual budget and a long-term capital expenditure plan.

In addition to its general management responsibilities, and without limitation, the Board of Directors shall perform the following specific duties:

- (a) establish annual organizational goals;
- (b) manage the Association's finances, including approving the annual budget and recommending an appropriate dues structure to the membership;
- (c) allocate the Association's resources;
- (d) approve programs and activities of the Association's committees, including any studies to be conducted by such committees, and provide oversight of such committees;
- (e) adopt organizational positions and-policy statements;
- (f) manage the Association's activities;
- (g) establish relationships with other organizations, provided, that such relationships shall be in the interest of the Association;
- (h) hire or contract with such persons, firms, or entities as the Directors may determine to

provide services for or on behalf of the Association;

- (i) authorize participation in litigation to protect the Association's interests; provided, however, that the Association shall not initiate or join in any litigation as an amicus or in a similar capacity without the approval of 3/4 of the Directors in attendance at a properly noticed and called meeting at which a quorum of the Directors is present;
- (j) authorize participation in lobbying to protect the Association's interests; provided, however, that the Association shall not engage in any lobbying without the approval of 3/4 of the Directors in attendance at a properly noticed and called meeting at which a quorum of the Directors is present; and
- (k) ensure orderly long-range planning for the organization.

7.2. Number, Tenure and Qualifications. The Board of Directors shall consist of one Director appointed by each Member as described below. In addition, each Member shall appoint one primary alternate and one secondary alternate. The primary alternate Director shall have full voting authority in the absence of the appointing Member's regular Director. The secondary alternate Director shall have full voting authority in the absence of both the appointing Member's regular Director and the appointing Member's primary alternate Director. Each Director shall serve for a three-year term until said Director's resignation, retirement, removal, disqualification or until said Director's successor is appointed and qualified.

7.3. Ex Officio Directors. The Soil and Water Districts located in whole or in part in the Falls Lake Watershed jointly shall designate an individual to serve as an ex officio director and another individual to serve as an alternate ex officio director. In addition, the Board of Directors may, by majority vote, create other ex officio director and ex officio alternate director seats. Ex officio directors may participate in all discussions held in open meetings but shall not have a vote on any matter. Ex officio directors shall not participate in closed sessions.

7.4 Annual Meeting. Annual meetings of the Board of Directors shall be held in the month of January each year, beginning in 2012, or at any reasonable time thereafter at the discretion of the Board of Directors, at a time and place to be determined by the Board of Directors, for the purpose of electing directors and for the transaction of such other business as may come before the meeting. The secretary shall give notice of each ratified resolution to any Director who was not present at the time it was adopted. No further notice of an annual meeting need be given.

7.5. Regular Meetings. Regular meetings of the Board of Directors shall be held at such times and places, within or without the State of North Carolina, as the Board of Directors may, by resolution, determine. The Secretary shall give notice of each ratified resolution to any Director who was not present at the time it was adopted. No further notice of a regular meeting need be given. All resolutions adopting regular meeting schedules shall be filed with the Secretary at least seven days before the first meeting held pursuant to the revised schedule pursuant to N.C. Gen. Stat. §143-318.12(a)(4). The schedule of regular meetings shall also be posted to the Association's website, if any, in accordance with N.C. Gen. Stat. §143-318.12(d).

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7.6. Special and Emergency Meetings: Special and emergency meetings may be called in accordance with Article 33C, Chapter 143 of the North Carolina General Statutes.

7.7. Notice of Meetings. Except as set out in Section 7.5 above, no notice need be given of regular meetings of the Board of Directors. Notice of special and emergency meetings of the Board of Directors shall be given in accordance with Article 33C, Chapter 143 of the North Carolina General Statutes.

7.8. Quorum; Voting. A majority of the number of Directors presently comprising the Board of Directors shall constitute a quorum for the transaction of business at a meeting of such Board except as expressed in paragraph 8.8 Compliance Group Committee. If quorum is present when a vote is taken, the affirmative vote of a majority of the Directors present is the act of the Board of Directors unless these bylaws specifically require a supermajority vote. A Director who is present at a meeting of the Board of Directors or a committee of the Board of Directors when corporate action is taken is deemed to have assented to the action taken unless that Director votes against the action taken or is excused from voting by the Board except as expressed in paragraph 8.8 Compliance Group Committee. The Board may excuse a Director from voting, but only upon questions involving the Director's own financial interest or official conduct or on matters on which the Director is prohibited from voting under G.S. 14-234.

7.9. Electronic Meetings. The Board of Directors may permit any or all Directors to participate in a regular or special meeting by, or conduct the meeting through the use of, any means of communication by which all directors participating may simultaneously hear each other during the meeting in accordance with Article 33C, Chapter 143 of the North Carolina General Statutes.

7.10. Compensation. No director shall be entitled to any compensation for his services as a Director; provided, however, that a Director may be reimbursed for expenses incurred by him in performing services requested by the Board of Directors.

7.11. Removal; Vacancies. Any Director may be removed from office at any time, with or without cause, by the Member that appointed said Director. If a Member's membership interest is terminated pursuant to §9.7 of these Bylaws, then such termination shall also serve to remove any Director appointed by said Member from the Board of Directors.

## **ARTICLE VIII – COMMITTEES**

8.1. Board Committees. To assist the Board in its management, the Board may appoint Board committees and assign Directors thereto from among the Directors and shall designate the chairperson and vice chairperson of such committees from among such Directors except as expressed in paragraph 8.8 Compliance Group Committee. The Board may also appoint ex officio directors and non-directors to serve on Board Committees in a non-voting capacity.

8.2. Authority of Board Committees. To the extent specified by the Board of Directors and except as expressed in paragraph 8.8 Compliance Group Committee, each Board committee may exercise the authority of the Board of Directors, except that a Board committee may not: (i) approve or recommend to Members action that is required by law to be approved by Members; (ii) fill vacancies on the Board of Directors or on any of its committees; (iii) amend or restate the Articles; (iv) adopt, amend, or repeal these Bylaws; (v) adopt a plan of merger or consolidation with another corporation; (vi) elect, appoint

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or remove any member of any such committee or any Director or Officer of the Association; or (vii) take any other action prohibited by the Nonprofit Act. The creation of, delegation of authority to, or action by a Board committee does not alone constitute compliance by a Director with the standards of conduct required of a Director.

8.3. Tenure. Board committee members shall serve for one-year terms and may be reappointed without limitation.

8.4. Oversight. The Board of Directors shall ensure that Board committees perform in accordance with the basic goals of the Association and any specific goals and objectives approved by the Board of Directors for each Board committee and shall oversee Board committee utilization of resources.

8.5. Special Committees. In addition to Board committees, the Board of Directors, in its judgment, may create such special committees as will facilitate the efforts of the Association in achieving its basic goals. The Board of Directors shall appoint the members of such special committees from among representatives of the Members or outside agencies and shall designate a chairperson and vice chairperson of each such special committee.

The Board of Directors may also establish one or more subcommittees of any special committee as necessary to further the goals of the Association. The Board of Directors may delegate the selection of subcommittee or special committee members to any such subcommittee or to the chairperson of a special committee.

8.6. Special Committee Programs and Reports. Upon request of the Board of Directors, each special committee shall submit to the Board of Directors following the annual meeting its program and agenda for the next year, and upon request shall report in writing on its activities, including any recommendations the special committee may have for the Board of Directors' consideration.

8.7. Committee Meetings; Miscellaneous. The provisions of these Bylaws governing meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the Board of Directors shall apply with equal force to committees of directors and their members as well unless otherwise specified in the Bylaws for a specific committee.

8.8 Compliance Group Committee. Any local government that is an active Member in good standing of the Association ("Eligible Party") may join the Compliance Group Committee which shall administer the IAIA Program (see Attachment B). Any subsequent revisions to Attachment B require unanimous approval by the Compliance Group Committee.

Compliance Group Directors: The Directors who represent Members of the Association that have joined the Compliance Group of the Interim Alternative Implementation Approach (IAIA) for local governments subject to the Existing Development rule, 15A NCAC 2B .0278, "Compliance Group Participants" shall constitute the Compliance Group Committee of the Association and the Directors of those members will be referred to as the Compliance Group Directors. The Compliance Group Directors shall be responsible for making all decisions necessary to maintain compliance with the Joint Compliance Option Model Program for Existing Development Stormwater adopted by the Environmental Management Commission pursuant to rule, 15A NCAC 2B .0278, which is also referred

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to herein as the IAIA.

**Duties and Responsibilities of the Committee:** The Compliance Group Directors shall be responsible for attainment of the objectives specified for the Compliance Group, including governance, maintenance, operation, and conduct of the affairs of the Compliance Group. The initial allocation of the minimum annual financial investments by the Compliance Group Participants is shown Attachment B and will continue as shown in Attachment B, unless revised by a unanimous decision of all of the Compliance Group Directors. Participating jurisdictions must show that such expenditures occurred in an annual report to the Compliance Group Directors. To clarify, monies are not payable to the Association, except if so directed by a Special Assessment.

**Quorum:** A majority of the Compliance Group Directors shall constitute a quorum for the transaction of business at a meeting of the Compliance Group Committee.

**Addition of New Members:** If an Association Member in good standing, demonstrating current compliance with the Stage I Existing Development Rule in terms of annual expenditures that meet the requirements of the IAIA, seeks to join the Compliance Group Committee, the Member will make application in which the Member certifies its agreement to be bound by the terms of a revised Attachment B, which includes the applicant's membership in the Compliance Group Committee. The Chair of the Compliance Group Committee will notify existing IAIA Participants of a new participant request. The Chair will notify the Eligible Party applicant within thirty (30) days following the Compliance Group Committee's decision on whether to admit the new Compliance Group Committee Participant and of the new Participant's required investment commitment and dues, if applicable. Addition of a new Participant becomes effective upon the Compliance Group Committee's approval of the necessary changes to Attachment B, and the new Participant's payment of its initial investment and dues, as required.

**Resignation:** An IAIA Participant may resign from the Compliance Group upon one hundred twenty days' notice prior to submitting a written resignation to the Compliance Group Committee Chair, and the Executive Director. The resigning IAIA Participant is required to pay any outstanding dues for the fiscal year (July 1 through the following June 30) in which they notice their resignation. The resigning IAIA Participant is also required to complete any financial investment commitment made on projects undertaken through a special assessment as described in Article V.

**Termination:** The termination of the membership in the Association of any Member that is also an IAIA Participant, shall terminate participation in the Compliance Group Committee. Upon receipt of notification from DEQ of its final determination that a member of the Compliance Group Committee has failed to make the required annual showing of financial investments as set forth in Attachment B, membership in the Compliance Group shall be terminated.

## ARTICLE IX – MEMBERSHIP

9.1. **General Membership Provisions.** Any local government located in whole or in part within the Falls Lake Watershed may become a member of the Association ("Member") on the terms and conditions designated herein. For the purposes hereof, a "local government" means a county, city, town, or incorporated village that is located in whole or in part with the Falls Lake Watershed. Local



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government also includes any water or sewer authority that is created pursuant to Article 1 of Chapter 162A of the North Carolina General Statutes that provides service within the Falls Lake Watershed. Local governments that are members in good standing of the Upper Neuse River Basin Association, Inc. at the time of adoption of these By-laws shall remain members of the Association so long as they continue to meet the requirements of membership set out herein below.

9.2. Election of Members. Each candidate for membership shall make application on a form specified by the Board of Directors. All completed applications shall be considered by the Board of Directors at its next regular meeting following submission of the application. Approval of an application shall be granted by the Board of Directors to any local government located in whole or in part within the Falls Lake Watershed provided the local government requesting membership pays its initial dues as required herein. Membership shall become effective upon (i) payment of initial dues by the applicant in an amount established by the Board of Directors based on a formula or policy applicable to all Members, and (ii) a vote by the Board of Directors admitting such candidate which vote must be in the affirmative if the candidate is a local government located in whole or in part within the Falls Lake Watershed and the applicant pays its dues.

9.3. No Capital Stock. The Association shall have no issued or authorized shares of capital stock and no shareholders.

9.4. Voting Rights of Members. Members shall have voting rights as described in this paragraph. As stated elsewhere herein, each Member shall have the right to appoint one Director, one primary alternate Director, and one secondary alternate Director. The primary alternate Director shall have full voting authority only in the absence of the appointing Member's regular Director and the secondary alternate Director shall have full voting authority only in the absence of both the appointing Member's regular Director and primary alternate Director. All of a Member's rights to take part in the management of the Association shall be by and through its Director, primary alternate Director, or secondary alternate Director.

9.5. Obligations and Duties of Members.

- (a) Members shall pay their annual membership dues within sixty (60) days after statements are mailed by the Association.
- (b) Members shall adhere to the Bylaws and other rules and regulations as established from time to time by the Board of Directors, its committees, or other Members.
- (c) In the event that a Member is delinquent in the payment of any amounts owed, the Member shall be notified within sixty (60) days of the date of such delinquency. If the Member receives two (2) consecutive notices of delinquency and if payment has not been made by the third month after such amounts become due and payable, the membership status of such Member shall be terminated. Such termination of membership status shall not relieve the Member of its obligation to make all payments due before the date of the termination.

9.6. Resignation of Members. Any Member may resign at any time upon one hundred twenty days prior written notice by submitting a written resignation to any officer of the Association or Member

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of the Board of Directors. Such resignation shall relieve the Member so resigning from obligations to pay dues or make contributions accruing after the date of such resignation. Any resigning Member must satisfy all payment obligations arising before such resignation.

9.7. Termination of Membership. In addition to having its membership terminated for nonpayment of dues as set out above, a Member's membership in the Association shall also be terminated if the Member is no longer a local government located in whole or in part within the Falls Lake Watershed.

9.8. Restrictions on Transfer. Memberships in the Association and the Compliance Group are not transferable.

## ARTICLE X – OFFICERS

10.1. Number. The officers of the Association shall consist of a Chairperson, a Vice Chairperson, a Secretary, and a Treasurer. The Chairperson and Vice Chairperson shall be Directors. The Secretary and Treasurer may, but need not be, Directors. The offices of Secretary and Treasurer may be combined.

10.2. Election, Term of Office and Qualifications. Each Officer shall be elected by the Board of Directors and shall hold office until the annual meeting of the Board of Directors held next after such officer's election, or until such officer's successor shall have been duly chosen and qualified, or until death, or until such officer shall resign, or shall have been disqualified, or shall have been removed from office.

10.3. Removal. Any officer elected or appointed by the Board may be removed by the Board by a majority vote of the Directors present at a properly noticed and called meeting at which a quorum is present whenever in its judgment the best interest of the Association would be served thereby. New officers may be elected at the same meetings to fill the unexpired term of the removed officer.

10.4. Resignation. Any officer may resign at any time by giving written notice to the Board of Directors or to the Chairperson or the Secretary of the Association. Any such resignation shall take effect upon its being accepted by the Board of Directors.

10.5. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or otherwise, may be filled by the Board of Directors, by a majority vote for the unexpired portion of the term.

10.6. Chairperson. The Chairperson shall preside at all meetings of the Board of Directors. The Chairperson shall enforce these By-laws and perform all duties incident to the office and which are required by law, and generally shall supervise and control the day-to-day business and affairs of the Corporation. The Chairperson shall perform whatever additional duties and have whatever additional powers the Board of Directors may from time to time assign.

10.7. Vice Chairperson. During the absence or incapacity of the Chairperson, the Vice Chairperson shall perform the duties of the Chairperson and when so acting shall have all the powers

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and be subject to all the responsibilities of the office of the Chairperson and shall perform such duties and functions as the Board of Directors may prescribe.

10.8. Secretary. The Secretary shall keep accurate records of the acts and proceedings of all Directors meetings and shall give all notices required by law and by these Bylaws. The Secretary shall have general charge of the corporate books and records, and of the corporate seal, and shall affix the corporate seal to any lawfully executed instrument requiring it. The Secretary shall have general charge of the books of the Association and shall keep at the registered or principle office of the Association a record of Directors signatures, and, in general, shall perform all duties incident to the office of Secretary and such other duties as may be assigned the Secretary from time to time by the Chairperson or the Board of Directors.

10.9. Treasurer. The Treasurer shall have custody of all funds and securities belonging to the Association and shall receive, deposit, or disburse the same under the direction of the Board of Directors. The Treasurer shall keep full and accurate accounts of the finances of the Association in books especially provided for that purpose; and shall cause a true statement of its assets and liabilities as of the close of each fiscal year and of the results of the operations and of changes in surplus for each fiscal year, all in reasonable detail, to be made and filed at the registered or principle office of the Association within four months after the end of such fiscal year. The statement so filed shall be kept available for inspection by any Director for a period of ten years; and the Treasurer shall mail or otherwise deliver a copy of the latest such statement to any Member upon such Member's written request. The Treasurer, in general, shall perform all duties incident to the office of treasurer and such other duties as may be assigned to the Treasurer from time to time by the Chairperson or by the Board of Directors.

10.10. Executive Director. The Board of Directors may employ or contract for the services of an Executive Director. The Executive Director shall perform those administrative duties assigned to the Executive Director by the Board of Directors in a resolution appointing the Executive Director or in such other resolutions as the Board of Directors may adopt.

10.11. Duties of Officers May Be Delegated. In case of absence of any officer of the Association or for any other reason that the Board may deem sufficient, the Board may delegate the powers or duties of such officer to any other officer or to any Director for the time being, provided a majority of the entire Board of Directors concurs therein.

10.12. Bonds. Any or all officers and agents, respectively, shall, if required by the Board of Directors, give bonds for the faithful discharge of their duties in such sums and with such surety as the Board of Directors shall determine.

## **ARTICLE XI – CONTRACTS, LOANS, CHECKS AND DEPOSITS**

11.1. Contracts. The Board of Directors may authorize any officer or officers or agent or agents to enter into any contract or execute and deliver any instruments in the name and on behalf of the Association, and such authority may be general or confined to specific instances. Specific approval by the Board of Directors shall be required before any officer enters into any contract the total value of which is over \$10,000.00.

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11.2. Loans. Except for loans that are incurred in the ordinary course of business, no loans shall be contracted on behalf of the Association and no evidences of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors. Such authority may be general or limited to specific instances.

11.3. Checks and Drafts. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Association shall be signed by such officer(s) or agent(s) of the Association and, in such manner as shall from time to time be determined by resolution of the Board of Directors.

11.4. Deposits. All funds of the Association not otherwise employed shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositaries as the Board of Directors may select.

## **ARTICLE XII – INDEMNIFICATION**

In the event that the Association purchases directors and officers insurance or other similar insurance, the Association shall to the fullest extent permitted by the Nonprofit Act up to the limits of its insurance coverage indemnify all persons whom it may indemnify pursuant thereto so long as such persons have conducted themselves in good faith and reasonably believed their conduct not to be opposed to the Association’s best interests.

The Association may purchase and maintain insurance on behalf of any person, who is or was a director, trustee, officer, employee or agent of the Association who, while a director, trustee, officer, employee or agent of the Association is or was serving at the request of the Association as a director, trustee, officer, partner, trustee, employee or agent of another corporation, partnership, joint venture, trust, employee benefit plan or other enterprise, against liability asserted against or incurred by him or her in that capacity or arising from his or her status as such, whether or not the Association would have the power to indemnify him or her against the same liability under the Nonprofit Act.

## **ARTICLE XIII – AMENDMENTS**

These Bylaws may be amended or repealed, and new Bylaws may be made at any regular or special meeting of the Board of Directors by an affirmative majority vote of Directors then holding office.

## **ARTICLE XIV – MISCELLANEOUS**

14.1. Audit. The Association shall have an independent audit prepared detailing the financial condition of the Association at least once every three years. The Association may have an independent audit done more frequently as determined by the Directors.

14.2 Dissolution. The Association may be dissolved only by the vote of the majority of the Directors of the Association at a meeting to which due notice of such purpose has been given to the Directors. Upon the dissolution of the Association, the Board of Directors shall first pay or make provision for the payment of all the liabilities of the Association and then shall dispose of all the assets of the Association exclusively for the purposes of the Association in such manner or to such organization or organizations operated exclusively for charitable and educational purposes as the Board of Directors

Adopted by the UNRBA Board of Directors Feb. 16, 2011;  
Amended Nov. 20, 2013; Amended March 17, 2021; Amended March 16, 2022

shall determine, and any such assets not so disposed of shall be remitted to the Members in proportion to their respective dues contribution percentages for the then current fiscal year, or, alternatively, each Member may direct that its portion be contributed and given to a 501(c)(3) organization for use in furthering the health, safety and welfare of the public in the Falls Lake Watershed, its jurisdiction, or North Carolina. None of the assets shall be disposed of or diverted to any other purpose, nor shall any asset be disposed of in such manner so as to accrue to the benefit of any Director of said Association.

14.3. Interpretation of By-laws. These By-laws shall be construed and interpreted under the laws of the State of North Carolina. Notwithstanding the foregoing, however, these By-laws shall at all times be construed and interpreted as consistent with all federal laws and regulations governing the activities of the Association and governing the tax exempt status of the Association, and in the event that these By-laws may be inconsistent with such laws and regulations, the same shall be deemed amended to comply therewith. Whenever used in these By-laws, unless the context otherwise indicates, a pronoun in the masculine gender shall include the feminine gender and the singular shall include the plural, and vice versa.

14.4 All other by-laws repealed and replaced. Upon adoption of these Bylaws by the association, all other bylaws of the Upper Neuse River Basin Association, Inc. are repealed and replaced.

## ATTACHMENT A – DUES FORMULA

A Member's dues, which shall be that Member's share of the total dues assessment for all Members which is included in the annual budget ("Total Annual Dues"), shall be determined as follows:

1. Base participation rate: Ten percent of the Total Annual Dues shall be allocated equally among all Members. For example, if there are ten Members and the Total Annual Dues are \$100,000.00, the base participation total will be \$10,000.00 and each Member will pay \$1,000.00 as its share.
2. Member's Falls Lake Watershed water demands. Fifty percent of the Total Annual Dues shall be allocated among those Members having water demand from the Falls Lake Watershed based upon each such Member's share of the total annual (365-day) daily average raw water demand for the preceding calendar year in millions of gallons per day from the Falls Lake Watershed. For example, if the Total Annual Dues are \$100,000.00 and the total water demand from the Falls Lake Watershed is 100,000,000 gallons per day and Member A used 60,000,000 gallons per day for the last year for which such records are available from the North Carolina Department of Environment and Natural Resources (the "Relevant Period"), Member B used 34,000,000 gallons per day during the Relevant Period; Member C used 4,000,000 gallons per day during the Relevant Period; and Member D used 2,000,000 gallons per day during the Relevant Period, then each Member's share of the Total Annual Dues based upon water demand would be as follows: Member A: \$30,000.00; Member B: \$17,000.00; Member C: \$2,000.00; and Member D: \$1,000.00.
3. Member's Proportion of Land Area in Falls Lake Watershed. Forty percent of the Total Annual Dues shall be allocated among those Members with land area in the Falls Lake Watershed within their corporate limits (for a municipality) or county limits (for a county). Each jurisdiction's contribution shall be based upon a fraction having as its numerator that jurisdiction's total acreage within the Falls Lake Watershed and as its denominator the total acreage in the Falls Lake Watershed. For example, if the Total Annual Dues are \$100,000.00 and Member A has 72,000 acres in the Falls Lake Watershed and there are a total of 494,000 acres in the Falls Lake Watershed, then that Member's share of the Total Annual Dues based upon proportion of land area in the Falls Lake Watershed would be as follows: \$5,829.96  $[(72,000/494,000) * (.40 * \$100,000.00) = \$5,829.96]$ .

The examples above are given for the purpose of illustration only and are not intended to be indicative of the Total Annual Dues that may be required or of any individual Member's level of contribution. Members' contributions will be rounded to the nearest whole dollar.

**ATTACHMENT B –  
FINAL PROGRAM DOCUMENT: STAGE I EXISTING DEVELOPMENT (ED)  
INTERIM ALTERNATIVE IMPLEMENTATION APPROACH (IAIA)**

Submitted for Review and Approval to:  
North Carolina Division of Water Resources (DWR) and the  
North Carolina Environmental Management Commission (EMC)

Submitted as a Joint Compliance Approach Under the Stage 1 Existing Development Rule and the  
Approved Model Program

Submitted by

The Upper Neuse River Basin Association (UNRBA)  
on behalf of Members Participating in the IAIA Program



The Upper Neuse River Basin Association  
P.O. Box 270  
Butner, NC 27509

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## Abbreviations

BMP	Best Management Practices
DWR	NCDEQ Division of Water Resources
EMC	Environmental Management Commission
ED	Existing Development
IAIA	Interim Alternative Implementation Approach
MS4	Municipal Separate Storm Sewer System
NCDEQ	N.C. Department of Environmental Quality
NGO	Non-governmental organization
PFC	UNRBA Path Forward Committee
SCM	Stormwater Control Measure
TMDL	Total Maximum Daily Load
UNRBA	Upper Neuse River Basin Association

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## Purpose

Preliminary work on this joint compliance approach to Stage I Existing Development (ED) requirements under the Falls Lake Rules was initiated by the Upper Neuse River Basin Association (UNRBA). A subset of UNRBA members may choose to participate in this IAIA Program. This Program Document was finalized by the IAIA participants for submittal to the Division of Water Resources (DWR) and the NC Environmental Management Commission (EMC) in response to the provision allowing joint compliance through an IAIA as described in the Model Program developed by DWR and approved by the EMC. The IAIA participants are seeking DWR and EMC approval of the program as described within this document.

Jurisdictional participation in this program is demonstrated by the adoption of the IAIA Program Document by the UNRBA Board (Table 2). A resolution by the Compliance Group Committee confirming participation will be included in the IAIA submission to DWR and the EMC.

The Program Document presents the framework for the IAIA, provides the provisions of investment by each participant and as a group, identifies qualifying project types, describes how additional practices/projects can be approved for use, outlines reporting procedures, and represents a general guidance document for use by the participants in the IAIA. This Document builds on previous conceptual documents and clarifies the specific provisions of the IAIA in practice. In addition to the IAIA participants, previous documents and reviews have been coordinated with DWR, other regulated sectors and public interest organizations.

The IAIA participants will serve as general coordinator of the program and, with information provided by the participating members, will provide to DWR and the EMC joint reporting of the status of overall IAIA progress and compliance with this provision of the Model Program. The IAIA does include an option for developing projects facilitated by the group, however, jurisdictions will likely develop projects individually, cooperate with existing agencies/organizations, and cooperate with other jurisdictions (two or more working together) to undertake and complete projects. Each participating jurisdiction will provide annual reporting to DEQ. The Compliance Group Committee will use the individual reports to provide a summary of overall investment commitments of all of the participating jurisdictions in the IAIA. Participation in the IAIA and membership in the UNRBA is required for participation under this joint compliance approach. In addition to reporting overall program status, the Compliance Group Committee will provide support to its participating members in accordance with the provisions of this Program Document.

As noted in this Document, jurisdictions in the Falls watershed which fall under the provisions of Stage I ED and do not participate in the IAIA are required by the Model Program to comply through the submittal of individual Local Programs.

A template for reporting is provided in Appendix D. The resolution designating the IAIA participants will be submitted with this document to DWR and the EMC. Agreements for joint

projects implemented by two or more cooperating participants will follow standard local government agreements for joint efforts.

## Overview

Since 2018, the UNRBA has been exploring an alternative option for achieving compliance with Stage I ED nutrient load reductions required by the current Falls Lake Nutrient Management Strategy (the Rules). An important aspect of this alternative approach is to promote additional actions directed at reducing nutrient loading impacts from ED and to promote general improvement in the eutrophication conditions in Falls Lake (Lake). This program is considered interim because it would apply only during the period between the time this alternative approach is initiated and when the Falls Lake Rules are readopted (expected in 2025 or later). However, it is anticipated that the experience gained during the use of this approach will help inform the development of ED nutrient management strategies for inclusion in the readopted rules.

This Stage I IAIA is based on voluntary participation of UNRBA members in the Program and will allow participating jurisdictions to achieve compliance with Stage I ED Rule requirements. Choosing not to participate in the Stage I IAIA results in a jurisdiction having to comply by developing a Stage I ED local program consistent with the Rules and the Model Program (see Appendix A). However, participating in the IAIA will allow a jurisdiction, in the interim period, to achieve full Stage I ED compliance.

## Regulatory Background

In 2011, the NC Environmental Management Commission adopted the Falls Lake Nutrient Management Strategy (“the Rules”). The Rules include two stages of nutrient reductions that are the most stringent and costly nutrient reduction requirements ever passed in NC. The Rules acknowledged that there is considerable uncertainty associated with the requirements under Stage II, and the Rules allow for a re-examination if certain steps are followed. The UNRBA began planning for the re-examination of Stage II in 2011, and the re-examination is based on a significant monitoring and modeling effort. All of the steps required to undertake the re-examination have been completed or are underway, and approvals from DEQ have been secured at each step of the process. Monitoring started in August 2014 and was completed in October 2018. Modeling and other analyses to support the re-examination are underway.

The Rules define specific requirements for Stage I and Stage II for different sectors of the regulated community. The Stage I requirements have been met by major point sources (wastewater treatment systems owned and operated by local governments in the watershed) and agriculture. The Stage I ED requirements for local governments have not been set by DWR and the EMC. The original schedule included development of a Model Program for ED by DWR followed by EMC approval and submittal of Local Programs with implementation beginning at the time of submittal (required within six months of EMC Model Program approval) and with

full compliance by 2021. The development of the Model Program was delayed allowing the UNRBA Nutrient Practices Project to be completed and for DWR to more fully develop its list of approved practices for use by local governments. Though implementation is still controlled by the Rule, the passage of Session Laws [2016-94](#) and [2018-5](#) ([see excerpts related to Falls Lake in Appendix B and Appendix C, respectively](#)), modified the schedule for completion of Stage I ED and revised to the date at which the Falls Lake Rules would be re-adopted (after completion of the UNRBA re-examination and the Collaboratory's evaluation of the Lake). As noted, the Session Laws do not alter the rule requirements for implementation of Stage I, but implementation cannot formally proceed until the Model Program actions required by DWR and the EMC are completed. [Session Law 2018-5](#) states that the rules re-adoption process for the Falls Lake Strategy must be started by the EMC no later than December 31<sup>st</sup>, 2024. It also states that the due dates for reduction actions and goals originally set to be completed by December 31, 2020, and the reduction actions and goals identified as Stage II in the Falls Lake Rules are delayed until readopted Falls Lake Rules become effective.

Some parts of the Rules associated with Stage I ED present challenges in both interpretation and implementation. The internal and external stakeholders that have contributed to discussions of an IAIA, including DWR, acknowledged an opportunity to use the joint-compliance language in the Rules to demonstrate compliance with Stage I ED. Also, it has been noted and demonstrated that the extent of reductions already accomplished through nutrient treatment improvements at the major wastewater treatment facilities shown in Table 1 (City of Durham, Town of Hillsborough, and SGWASA-South Granville Water and Sewer Authority), as well as other reductions from nonpoint sources such as impervious surface removal and repair of leaking sewer lines, have resulted in loading reductions well above and beyond estimates of the total requirements for Stage I ED. These facts provide an excellent opportunity to establish an alternate approach to Stage I ED that could be authorized under the Model Program. A review of the magnitude of the reductions already achieved by the referenced point sources demonstrates not only reductions beyond those required under the Falls Lake Point Source Rule, but also reductions beyond the total of the estimated reductions required by local governments to meet Stage I requirements for point sources and ED combined. Based on this general assessment of progress on load reduction, DWR determined that joint compliance under the rules would be an appropriate way to authorize an IAIA for compliance under the rule.

**Table 1. Previous Three Years Nutrient Loading (Pounds per Year) from Three Major Wastewater Treatment Plants in the Falls Lake Watershed Compared to Stage I Waste Load Allocations**

Year	Actual Load from Three Major Plants (pounds per year)	Stage I Allocation for Three Major Plants (pounds per year)	Available Load for Reasonable Assurance (pounds per year)
<b>Nitrogen</b>			
2018	91,430	130,507	39,077
2019	69,947	130,507	60,560
2020	89,757	130,507	40,750
<b>Phosphorus</b>			
2018	4,411	14,469	10,058
2019	6,503	14,469	7,966
2020	5,918	14,469	8,551

In 2018, the UNRBA began discussing a Stage I IAIA that would be used to legally comply with the Stage I ED requirements by taking supplemental reduction actions. The IAIA will also provide a pilot for a potential alternative approach when developing the revised nutrient management strategy through the re-examination. The Stage I IAIA allows jurisdictions to undertake actions in the interim period (before the re-examination is complete and a new strategy is adopted and in place) that provide short and long-term improvements in water quality in the watershed and the Lake. The Stage I IAIA uses an investment-based compliance system rather than a nutrient load reduction-based tracking system as currently prescribed by the Rules. Some UNRBA members began implementing projects toward reducing the impacts from ED well before the Falls Lake Rules were adopted and put in place. Based on jurisdiction-specific input, actions can be tracked back to 2006, the baseline year for the current Rules. This was well before load reduction targets were established. For simplicity and to expedite program implementation, the Stage I IAIA does not account for projects implemented since 2006, but instead focuses on projects implemented between the start of the IAIA and the adoption of a revised Stage II nutrient management strategy. However, while the Stage I IAIA will not track early implementation, jurisdictions that undertook early project development should receive full credit for those projects under the revised strategy proposed by the re-examination process. The UNRBA will specifically address this issue when making recommendation on the Reexamination of the Falls Lake Nutrient Management Strategy and will work with the EMC and DEQ to press for appropriate early implementation credit. The Rules state that “the Commission shall recognize reduction credit for early implementation of policies and practices implemented after January 1, 2007 and before timeframes required by this Rule, to reduce runoff and discharge of nitrogen and phosphorus per Session Law 2009-486.” **There is solid**

**foundation in the Rules to support credit for early implementation and that credit should be allowed under the revised nutrient management strategy for the Lake.**

## Objectives and Guiding Principals

The IAIA participants, with input from external stakeholders including DWR staff, representatives from agriculture, and non-governmental organizations (NGOs), have identified the following objectives and guiding principles that will govern the operational actions taken by the jurisdictional participants for the Stage I ED IAIA:

- Promote additional progress and commit to maintaining the designated uses and to improve water quality in the Lake through the following actions:
  - Implement projects in the watershed focused on water quality improvements now and in the future while the re-examination process continues toward completion
  - Use a simplified approach based on committed funding levels
- Reach agreement on an appropriate, fair, and equitable funding level among participants for a Stage I IAIA, while estimating nutrient loading reductions expected from each project/program based on adopted credit practice information or best available information when available
- Determine nutrient reduction values, when appropriate reference materials are available, for each project or activity and track these values for future reference with the understanding that Stage I IAIA compliance is strictly based on financial investment
- Provide an interim approach that is fair to all participating jurisdictions and help lay the foundation for ongoing consideration of innovative management approaches
- Expand the list of available management practices to encourage a broad use of watershed improvement and protection actions including land conservation in high priority areas
- Demonstrate the participants' continued commitment to achieving a reasonable, fair, cost-effective, and equitable management strategy for the Lake
- Provide an opportunity to coordinate a joint compliance effort amongst the participating members
- Utilize existing water quality improvement programs as available (i.e., other agencies and organizations, see Administration section) to efficiently implement eligible projects and activities in order to promote timely project completion by
  - Minimizing administrative and process delays
  - Seeking projects that have lower development, installation, and maintenance costs
  - Allowing flexibility with program implementation (through simple allocation of funds, efficient project installation actions, and straightforward project completion metrics)

- Provide multiple, flexible, and innovative options for funding projects and activities that include individual jurisdictions, partnerships, or, as needed, consolidation of funds by the participants

## Stage I IAIA Participant Investment Commitments

Funding of Stage I IAIA eligible projects and activities (see next section) is based on minimum investment levels for each participating jurisdiction as determined cooperatively by the participating jurisdictions. The funding levels by participant for the IAIA are based on consideration of what represents a reasonable interim commitment and a willingness to pay.

To move the IAIA idea forward, Granville County identified \$100,000 per year as an investment level appropriate for their jurisdiction. The UNRBA discussed some alternative levels (higher and lower) but decided that the Granville County commitment level was a workable basis for assigning investment commitments. In following the guiding principle on fair and equitable basis for participation in the IAIA, the UNRBA members examined several commitment-allocation approaches. These approaches looked at several metrics related to what is a fair commitment and allocation basis. However, after considerable discussion, the UNRBA recommended and the participants agreed that the current UNRBA fee structure calculation method (excluding members without ED requirements) would be sufficient and acceptable for assigning the proportion of annual minimum investment level for the individual participants in the IAIA using the Granville County offer as the basis. This calculation methodology weights the distribution 50 percent on water withdrawal in the watershed, 40 percent on jurisdictional land area draining to the Lake, and 10 percent distributed equally among each member. Using the Granville County amount of \$100,000 as the basis, the resulting annual total funding level if all local governments in the UNRBA participate would be \$1.5 million per year. However, the total annual funding varies depending on how many members participate.

Table 2 shows how a \$1.5 million investment could be assigned to the IAIA participants if all current UNRBA member jurisdictions with an ED requirement participate. Funding commitments would allow roll over from year to year if a participant made a large upfront commitment or earmarked funds for a planned future Capital Improvement Project. Funds committed in one year that are included in the tracking for compliance cannot also be counted in a subsequent year when funds are spent; i.e., committed funds cannot be “double counted.” It is important to note that this is a “commitment” to apply this level of jurisdictional financial resources toward appropriate IAIA projects (applied to single-year or multi-year projects, including funds earmarked for planned future Capital Improvement Projects). If a jurisdiction already has financial resources going toward IAIA eligible projects, these funds will “count” toward meeting the identified commitment level. The identified investment commitments also represent minimum levels. Allocation of financial resources beyond the minimum levels would be tracked as well and would be considered in developing the revised watershed management



strategy to ensure that all actions to improve water quality are ultimately credited. The IAIA funding commitments will follow the established budgeting fiscal year (July 1 to the following June 30).

**Table 2. Local Government Financial Commitment Levels for Members that Choose to Participate in the Stage I ED IAIA**

Member	Annual Funding Level	Member	Annual Funding Level
Town of Butner	\$23,393	Town of Hillsborough	\$34,221
City of Creedmoor	\$16,926	Orange County	\$161,943
City of Durham	\$337,587	Person County	\$114,394
Durham County	\$133,300	City of Raleigh	\$466,081
Franklin County	\$19,058	Wake County	\$88,968
Granville County	\$100,453	Town of Wake Forest	\$13,692
Town of Stem	\$11,605		

## Eligible Activities

The key guiding principle for inclusion of activities and projects in the Program is how a project benefits water quality and quantity in the watershed and the Lake. As described above, tracking compliance under the IAIA is based on investment in projects and activities considered eligible under the Program. The participants worked with DWR, NGOs, and representatives from other regulated entities to obtain input on the practices and actions considered eligible. All components of undertaking, completing, and maintaining eligible project or activity may be counted toward the investment level: planning site preparation, designing, installing, adopting, implementing, and maintaining a project or activity. The Administration section includes general reporting requirements for demonstrating a project's impact on water quality in the watershed and the Lake.

Cost effectiveness in terms of water quality improvement will be a factor in making selection of projects and activities by each participating member. However, opportunity and other factors will be considered as well. The participating jurisdiction is responsible for verifying that each project meets the guidelines provided in this Program Document as well as other applicable rules or laws governing maintenance, sediment and erosion control, buffers, etc. Expenses associated with site screening and selection, planning, land acquisition, design, permitting, demolition, and removal (e.g., impervious surfaces); construction, operation, and maintenance for the following types of projects are eligible to be counted against the commitment amount. Project funding level in excess of the commitment amount can be carried forward to the next or future years of this interim program (and certainly will be identified for credit in the future revised strategy).

The following list identifies the activities/projects eligible for use under the IAIA:

- All State-approved practices with established nutrient credits including stormwater control measures (SCMs) including retrofits
- Green infrastructure and other best management practices (BMPs) that include water quality and quantity improvements
- Stream and riparian buffer restoration and enhancement
- Programmatic measures beyond baseline program activities (i.e., levels in 2006) for years after the start of the IAIA program
  - Fertilizer application education of businesses and homeowners
  - Onsite wastewater treatment system inspection programs, maintenance tracking, repair, replacement, and pump-out programs, education of owners regarding proper maintenance, and training of professionals who inspect and repair onsite systems
  - Pet waste pickup education, waste management stations, and enforcement
- Infrastructure improvements including
  - Repair and replacement of leaky infrastructure
  - Reduction of sanitary sewer overflows
  - Extension of sewer lines to areas using onsite systems (targeting areas with known failure issues) or package plants
- Illicit discharge detection and elimination
- Land conservation in high priority areas (as determined through an appropriate evaluation resource, i.e., land conservation programs that identify water quality aspects of available preservation sites)
- Floodplain restoration and reconnection
- Greenways and parks with water quality and quantity benefits (water quality benefits would be identified as specific project components and documented within the adopted development plans)
- Projects and activities that focus on flooding that have an associated water quality benefit
- Operation and maintenance costs associated with preserving long-term functionality of practices implemented under the IAIA
- Hydrilla removal and control as approved by DWR in a memorandum from Rich Gannon to Wesley Poole (Orange County) dated February 10, 2022: “The Division approves the type of activity described in your request as eligible toward compliance under the IAIA program, provided it is conducted through participation in the Eno River Hydrilla Management Task Force or other similar state-sanctioned body, and in accordance with the protocols of the Division’s Aquatic Weed Control Program. Acceptable activities under this oversight can include periodic, contained stocking of sterile grass carp in contributing ponds in the watershed and annual herbicide treatment (fluridone) in flowing streams, followed by a tuber survey to determine effectiveness.”

With the exception of projects implemented to comply with new development rules (i.e., those required to meet the New Development Rule in the Falls Lake Nutrient Management Strategy), projects and activities implemented by individual members to address other state and federal water quality regulations are not excluded from eligibility under the IAIA (i.e., Municipal Separate Storm Sewer System (MS4) permits/Phase I or II communities, addressing Total

Maximum Daily Loads (TMDLs) on streams, etc.). Project-by-project eligibility will be established based on the applicability of the effort relative to the guidelines in this Program Document and in consideration of the funding source. Over-treatment credits associated with new development projects would be eligible under the IAIA. This would apply directly to overtreatment of new development projects undertaken by the local jurisdiction under the new development rule. For overtreatment credit on private property, participating jurisdictions would need to secure an agreement with the property owner allowing the jurisdiction to use any overtreatment for meeting their IAIA commitments.

Additional activities/projects beyond those listed above are allowed under the IAIA pending approval by DEQ/DWR. It is the participants' understanding that the assessment of additional activities/projects by DEQ/DWR will be based on the general principles and provisions contained in this Program Document which are aimed at meeting the general criteria of water quality improvement or protection in the watershed and the Lake. The Compliance Group Committee will assist the jurisdiction in seeing that timely action on the request is provided. Additional approaches can be approved for the IAIA without having a specific nutrient credit associated with the practice. Any additional project, practice, or program undertaken must demonstrate that its application has a positive connection to improving or protecting water quality or managing water quantity in the watershed or catchment where it is being implemented. Additional activities/projects for which a local government seeks approval must meet the general criteria identified under the approved projects/practices section of this document. Approval of eligibility will be coordinated through DWR and documentation of DWR's approval must be secured before using the additional practice. The member(s) proposing an addition to the list of eligible practices, or an individual project or activity, will coordinate directly with DWR for approval. Member(s) seeking concurrence for an additional practice should inform the IAIA participants on the status so the other members can be notified and, following agency approval, the IAIA Program Document can be updated and other members notified. Additional activity/project types that have general applicability in the watershed will be available to other participating jurisdictions.

## Operation and Maintenance of Projects Implemented Under IAIA

IAIA participants should anticipate and plan for the operation and maintenance of projects that require these activities to ensure long-term functionality. For projects implemented by an individual participant, operation and maintenance costs in future years can be counted toward the jurisdiction's individual investment level under the program. Ensuring that practices installed under the IAIA maintain their performance is important for the protection of water quality in the future. If the revised nutrient management strategy for Stage II relies on nutrient-pounds accounting, demonstration of continued performance will provide the documentation for local governments to claim credits in the future. It is advisable for local governments to follow similar processes used for new development projects to ensure compliance in the future under a range of

potential nutrient management strategies. These requirements currently include development of operation and maintenance manuals and annual inspections.

For projects that are implemented jointly (through the cooperation of two or more members), long-term operation and maintenance should be considered in the allocation of investment credits for the project. One option is for the managing jurisdiction (likely where the project is implemented) to accept investments from other “cooperating” jurisdictions for upfront planning, design, and construction costs. Funds invested each year until the project is fully constructed would be assigned by amount to each contributor based on their annual investment. Under this option, the managing jurisdiction would assume responsibility and take full credit for long-term operation and maintenance. Another option is for the cooperating jurisdictions to contribute to long-term operation and maintenance and to account for those contributions in future years as IAIA investments. If long-term contributions from the cooperating jurisdictions are expected, project-specific agreements will need to be developed between the participating jurisdictions. Given the short duration of the IAIA Program, the first option may be the simplest to manage.

Provisions for ownership of the practice installation sites or easements should also be addressed when joint projects are implemented. Generally, ownership or the easement would be held by the jurisdiction where the project is located. For cases where the easement will be held by another jurisdiction or a non-member (like a land trust), these provisions will need to be specified in the project-specific agreements.

## Administration

The UNRBA and its members provided support and development for building the concept of the IAIA. To allow for administration of the Program by the UNRBA, the Association’s Bylaws were modified and readopted to allow establishment of an IAIA Program and to administer the group compliance effort under the UNRBA. This Program document will be included as an attachment to the Bylaws.

As stated in the modified Bylaws, the Directors who represent Members of the Association that have joined the Compliance Group of the IAIA for local governments subject to the Existing Development rule, 15A NCAC 2B .0278, “Compliance Group Participants” shall constitute the Compliance Group Committee of the Association, and the Directors of those members will be referred to as the Compliance Group Directors. The Compliance Group Directors shall be responsible for making all decisions necessary for the implementation of the UNRBA’s Joint Compliance Option under the Model Program for Existing Development Stormwater adopted by the Environmental Management Commission pursuant to rule, 15A NCAC 2B .0278, which is also referred to herein as the IAIA.

The primary duties related to the administrative management of the Compliance Group Committee are to compile progress reports from IAIA participants, summarize progress from the

membership related to joint compliance, assist participants in clarifying guidance in this document, coordinate participant meetings, provide support in documenting the results of meetings, actions taken and keeping records of those sessions, coordinating any needed modification of the Program document or program-related modifications to the Bylaws, and assisting with issues that may develop relative to reporting to DWR. Special projects under Article V of the Bylaws requires a special assessment of those participating members to support these projects. Special assessments will include the cost of administrative management of the special project. The Stage I IAIA does not require that the UNRBA, through the Compliance Group Committee, receive or manage funds from members investing in their own projects, or on projects undertaken by agreement with other IAIA participants or other organizations. It is the responsibility of the participating jurisdictions to develop any needed agreements and to account for and report its individual and joint projects/actions as called for in this document, provide the investment funding or support to successfully complete projects under the IAIA, and maintain appropriate project files for future reference. Project plans and specific information related to design, installation, operation, and maintenance do not have to be submitted to DEQ but should be kept on file by the jurisdiction in accordance with its file retention practices.

The IAIA allows four options to demonstrate and manage local government participation in the Stage I IAIA. Every effort will be made to provide flexibility in the application of each option. Investment amounts on an annual basis by project/action will be reported to DEQ with copies provided to the Compliance Group Committee for tracking and summary purposes. The Compliance Group Committee will provide annual reports to DEQ on total investments or commitments during the previous fiscal year. Individual reports should be submitted to DEQ (with copy to the UNRBA) by September 30<sup>th</sup> following the end of each fiscal year. A summary report based on the individual reports will be generated for consideration by the Compliance Group Committee at their following meeting in November with submittal to DEQ by November 30<sup>th</sup>.

Investments may be “cash” or in-kind (e.g., self-funded projects, donation of technical-service hours, or use of equipment). Individual members will provide annual reports to DEQ that identify the project generally and the investment amount (for multi-year activities/projects, the participating member will show a total investment and note the projected investment for the coming years). On the basis of these reports, the Compliance Group Committee will provide a summary report to DWR and the membership on total participation and total investment.

An individual IAIA participant is not limited to one of the four available options, but rather may allocate resources using one or more of the funding options:

- Self-funded – An individual participant may use funds for eligible projects and activities within and managed by their own jurisdiction.

- Interlocal agreement – Individual participants may enter into interlocal agreements in which eligible projects and activities are jointly funded by two or more jurisdictions.
- Funding existing local organizations - Individual participants may contribute funds towards eligible projects or activities to other local organizations including local Soil and Water Conservation Districts, County Health Departments, School Districts, watershed improvement associations, land conservation groups, and UNRBA members that do not have ED requirements that may implement projects to improve water quality. The receiving local organization is responsible for prioritizing and selecting from the list of eligible projects and activities under their established procedures for setting priority. Use of funds by other local organizations is limited to projects and activities associated with water quality and watershed improvement benefits. A separate agreement/contract may be required to specify use of funds through other local organizations.
- Development of a special project– individual participants may contribute to a special project under Section V of the Bylaws. Special projects must fall under the approved list of project types provided in this document.

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*Minimum investment amounts would be allocated and used under the four general funding options that Stage I ED IAIA participants have available to satisfy their minimum investment commitment.*

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Regardless of the type of funding arrangement used to demonstrate participation under the Stage I IAIA, each local government participating in the program will need to report, in accordance with this Program Document, the following types of information depending on the funding option utilized (i.e., as information is available). Appendix D provides more detail regarding these reporting elements:

- Funding option and partners
- Primary organization responsible for management and distribution of funds
- Types and locations of projects and activities planned and linkage to addressing water quality in the watershed and the Lake
- Status of projects and activities (e.g., permitting, construction, completion status)
- Funds allocated (cash and in-kind)
- Estimated nitrogen and phosphorus reductions associated with projects and activities if quantifiable, or other tracking metric, based on the information available for the action/project, for activities without State-approved nutrient credits (e.g., acres

conserved, linear feet of pipe repaired). Nutrient credits determined and based on approved crediting methods effective at the time the project is planned, designed, and developed that may be needed for any future credit accounting requirements under the readopted rules will not be decreased at a later time based on revisions to credit accounting methods or assumptions.

- Anticipated timeline for completion

## Duration

Duration of this IAIA is based on the decision of the EMC to approve the revised Falls Lake Model Program submitted by DWR. The EMC approved the revised Model Program in January 2021, which establishes the start date of July 1, 2021 for implementation of Stage I existing development requirements under a local program or the IAIA. The initial duration of this program will be July 1, 2021 until June 30, 2026 (5 years). This program may be extended if the Falls Lake Rules are not yet readopted by modification of this program document and issuance of a new resolution of the Compliance Group Committee. Prior to any renewal of the IAIA program, it is recommended that participating members begin planning for the next phase of an IAIA effort six months before the existing program expires.

UNRBA members can become IAIA participants by joining the Compliance Group Committee as described in the modified UNRBA Bylaws. Annual administrative dues may be established in accordance with the Bylaws. Participants may resign or be terminated in accordance with the Bylaws. Members that resign or are terminated will need to make arrangements with DWR to comply with the Stage I Existing Development Rule under the approved Model Program. It will be the responsibility of the member leaving the IAIA to contact DWR and to determine the actions they need to take to meet these requirements.

The duration of the IAIA Program is initially five years. This duration could be impacted by the readoption and implementation of the Falls Lake Rules. The readoption of the Falls Lake Rules must be achieved in accordance with [Session Law 2018-5](#) which specifies that the EMC must begin rule re-adoption no later than December 31, 2024 (see excerpt from [Session Law 2018-5](#) provided in Appendix C).

It is essential to the viability of the IAIA that previous and ongoing nutrient reduction activities and projects, including those implemented prior to and under a Stage I IAIA, are credited as actions/investments/reductions specified in whatever newly developed management strategy is finally adopted (as developed through the re-examination of Stage II). As noted previously in this document, the UNRBA and its members are committed to making sure that projects and activities implemented during the IAIA period will be included in the framework for compliance with the readopted Falls Lake Nutrient Management Strategy.

Participation is based on agreement to make an initial 5-year investment commitment under the IAIA program, specified by jurisdiction, for projects determined to be eligible for investment credit in reduction of water quality impacts from existing development and in helping to mitigate nutrient loading as described in this document.

- A five-year timeframe for commitment is established to minimize overall administrative burden for initiation of the program
  - Commitments are assigned annually based on the UNRBA's dues formula utilizing a \$100,000 per year commitment from Granville County for the initial IAIA commitment. IAIA participants may revise the annual commitment as described in the UNRBA's Bylaws.
  - Total program commitment is the sum of each participating jurisdiction's commitment. Jurisdictions are responsible for their assigned annual commitment, and if financial resources are made in excess of the annual commitment, the excess may be credited against the jurisdiction's entire five-year commitment.
  - Each jurisdiction can choose from several options to expend funds (e.g., individual projects, joint projects, funding eligible projects through organizations like local soil and water districts, school systems and county health departments or special projects as addressed in the Bylaws)
  - Jurisdictions can use a combination of project funding approaches and can change which funding options they utilize from year to year.
  - Investment credits generated from multi-jurisdictional projects shall be credited to the jurisdictions based on individual participant contribution levels and would include accounting for long-term operation and maintenance costs, unless the project agreement provides otherwise for allocation of investment credits.
- Each jurisdiction has the option to withdraw in accordance with the Bylaws.

## Compliance Determination

The IAIA is submitted to the NC EMC as a joint compliance framework for meeting the Stage I ED requirements as provided under the Model Program. As stated clearly within the Model Program and in this Program Document, Stage I IAIA compliance, and thus compliance with the Stage I ED Rule, is determined based on the IAIA participant meeting and reporting on its annual investment level as specified in this Program Document.

The IAIA is a group or joint compliance effort, but compliance under this program to meet Stage I Existing Development (Stage I ED) will be assessed individually for each participating jurisdiction. This Program Document was developed with this understanding and with the following basic provisions for demonstrating compliance:

- Each jurisdiction must document and track investments and eligibility of funded actions or projects and submit annual reports to DWR (with copies provided to the UNRBA Compliance Group Committee)



- Point source credits belong to the jurisdiction that owns the utility that created them unless the credits are sold or leased to another jurisdiction by the generating jurisdiction.
- A jurisdiction's adherence to the provisions of the IAIA represents compliance with the Stage I ED Rule.

If a participant resigns or is terminated under the provisions of the Bylaws, the following is a list of guidelines related to the impacts and actions that the departing jurisdiction must address or that will impact the jurisdiction in departing:

- Reentry to the program can only be considered under the membership provisions of the Bylaws
- It is the responsibility of the departing jurisdiction to contact DEQ-DWR and to determine the actions it must take and the schedule it must follow to comply with the ED Rule
- The jurisdiction must address specific IAIA program commitments made when joining the compliance group as described in the Bylaws

The group as a whole is not out of compliance if a member drops out.

Financial resource commitments of the departing member for any joint projects not yet completed would be controlled by the agreement in place between the joint project members that developed the joint project.

- The total investment level will change in the fiscal year following the departure of a member by the amount of the commitment assigned to the leaving member, but the remaining members investment commitments will not be revised.

The requirements for location of projects specified in the Falls Lake Rules (i.e., upper or lower watershed) does not apply to Stage I Existing Development and therefore does not apply to the IAIA Program. In other words, projects can be implemented anywhere in the watershed through this program. Additionally, the provisions of 15A NCAC 02B .0703 Nutrient Offset Credit Trading do not apply to ED and therefore do not apply to the IAIA.

Demonstration of compliance with Sub-Items (4)(a) or (b) of Rule .0278 can be accomplished with a brief description of relevant programs or activities being implemented (e.g., heightened permitting or land use requirements, education programs, recurring program expenditures) by the applicable jurisdictions and are considered eligible practices under the IAIA. This information will be provided by the participant in their individual annual report provided to DWR.

IAIA participants should ensure that all local, state, and federal requirements under their jurisdictional control are met. These include but are not limited to water supply watershed protection, buffer rules, MS4 permits, and sediment and erosion control requirements. In determining whether to be the host jurisdiction (where the project would be located) for an IAIA SCM project, the host jurisdiction should be alert to the requirements of other permit programs

and determine, in consultation with the Division of Energy, Mineral, and Land Resources, if the SCM will become a part of their MS4 inventory of local government owned facilities.

## Implementation Considerations and Ongoing IAIA Program Evaluation Components

This IAIA Program document was developed with input from the UNRBA PFC and the UNRBA Board as well as input from external stakeholders, including staff from DWR and representatives from agriculture and NGOs. These discussions identified several program components to guide implementation of the IAIA. The feedback provided in these discussions have acknowledged and supported the overall goals of the IAIA and the use of the IAIA as a pilot for a future revised strategy developed through the reexamination process. Given the goals of the program, the collaborative participation of the internal and external stakeholders, and the opportunity to accumulate experience and lessons learned for consideration ahead of completing the re-examination and developing an updated strategy, many of the program components are designed to promote flexible implementation.

One of the funding options under the IAIA involves cooperation with entities that are outside of the membership of the IAIA Program. If investments are used to contribute to eligible projects being done by a local organization such as a soil and water conservation district, local health departments, a land trust, or other entity, it is the responsibility of the IAIA participant and the local organization to ensure that appropriate agreements are in place consistent with the provisions of the IAIA program. Likewise, if a local government receives grant funding for an eligible project, only the investment from the local government(s) used to contribute a match to the project may be counted toward their annual investment commitment under the IAIA (i.e., the grant award may not be counted). It is the responsibility of the IAIA participant(s) to ensure that the requirements of the grant are met. If funding is related to agricultural projects, then potential issues regarding credit sharing must be negotiated with the farmer/landowner in coordination with the Falls Lake Watershed Oversight Committee and included in the written agreement with the local organization. However, it is anticipated that most investments under IAIA will go toward projects not directly related to agriculture.

Discussions about the IAIA program components has consistently noted that actual implementation of the IAIA will provide operational experience on an investment-based management approach to address impacts from existing development. It is anticipated that the IAIA participants and external stakeholders will meet periodically to discuss progress and evaluate how the program is proceeding. The IAIA program allows significant flexibility. However, if there is a need to revise the general components of the IAIA program, this program document can be revised and approved by the Compliance Group Committee.

Participation in the IAIA Program is confirmed by the UNRBA Board's revision of its Bylaws, adoption the Program Document, and submission of a resolution of commitment by the members of the Compliance Group Committee.

## Outline for Reporting

To ensure consistent levels of reporting and to streamline development of summary reports by the UNRBA, a reporting outline is provided (Appendix D). This outline has been developed as a template in Microsoft Excel. A copy of the template may be obtained by request from the UNRBA Executive Director.

## Appendix A. Falls Lake Model Program

The NC EMC approved the Falls Lake Model Program in January 2021. The document is available here: <https://files.nc.gov/ncdeq/Falls-Existing-Development-Model-Program-EMC-Approved-1-14-2021.pdf>.

## Appendix B. Session Law 2016-94, Section 14.13

### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2015

#### SESSION LAW 2016-94 HOUSE BILL 1030

#### SECTION 14.13

#### DEVELOPMENT OF NEW COMPREHENSIVE NUTRIENT MANAGEMENT REGULATORY FRAMEWORK

**SECTION 14.13.(a)** The General Assembly finds all of the following:

- (1) It is necessary for the State to have a comprehensive management strategy to protect and improve water quality.
- (2) Over the last 20 years, comprehensive watershed nutrient management strategies and buffer rules have been implemented in several river basins and watersheds in North Carolina where surface water quality has been impaired by excess nutrients.
- (3) It is in the interest of the State to review the costs and benefits of existing nutrient management strategies and determine whether those nutrient management strategies should be modified in order to maintain and improve water quality in nutrient sensitive waters.
- (4) The State should revise nutrient strategies to maintain proven measures already shown to be effective; incorporate new technological and management innovations; recognize investments in water quality already implemented by stakeholders; and share costs on an equitable basis.

**SECTION 14.13.(b)** Subsections (a) and (c) of Section 14.5 of S.L. 2015-241 are repealed and the Department shall terminate the demonstration project authorized by that section. Any funds allocated under subsection (a) of Section 14.5 of S.L. 2015-241 that are unspent and unencumbered on the effective date of this act shall revert to the Clean Water Management Trust Fund.

**SECTION 14.13.(c)** Of the funds appropriated to the Board of Governors of The University of North Carolina, the sum of five hundred thousand dollars (\$500,000) for each of the fiscal years from 2016-2017 through 2021-2022 is allocated to the Chief Sustainability Officer at the University of North Carolina at Chapel Hill to designate an entity to oversee a continuing study and analysis of nutrient management strategies (including in situ strategies) and compilation of existing water quality data specifically in the context of Jordan Lake and Falls Lake. As part of this study, the entity shall (i) review data collected by the Department of Environmental Quality and by other stakeholders from water sampling in areas subject to the Falls Lake or Jordan Lake Water Supply Nutrient Strategies and compare trends in water quality to the implementation of the various elements of each of the Strategies and (ii) examine the costs and benefits of basinwide nutrient strategies in other states and the impact (or lack of impact) those strategies have had on

water quality. The entity shall report to the Environmental Review Commission, the Environmental Management Commission, and the Department of Environmental Quality as set forth below:

- (1) With respect to Jordan Lake, the final results of its study and recommendations for further action (including any statutory or regulatory changes necessary to implement the recommendations) no later than December 31, 2018, with interim updates no later than December 31, 2016, and December 31, 2017.
- (2) With respect to Falls Lake, the final results of its study and recommendations for further action (including any statutory or regulatory changes necessary to implement the recommendations) no later than December 31, 2021, with interim updates no later than December 31, 2019, and December 31, 2020.

No indirect or facilities and administrative costs shall be charged by the University against the funds allocated by this section. The Department of Environmental Quality shall provide all necessary data and staff assistance as requested by the entity for the duration of the study required by this subsection. The Department shall also designate from existing positions an employee to serve as liaison between the Department and the entity to facilitate communication and handle data requests for the duration of the project.

**SECTION 14.13.(d)** As part of the periodic review and readoption of rules required by G.S. 150B-21.3A, the Environmental Management Commission shall, based on the study required by subsection (c) of this section and any monitoring or modeling study conducted pursuant to existing regulations as defined in this section, review the following Nutrient Strategies:

- (1) The Falls Water Supply Nutrient Strategy, 15A NCAC 2B .0275 through .0282 and .0315.
- (2) The Jordan Lake Water Supply Nutrient Strategy, 15A NCAC 2B .0263 through .0273 and .0311.
- (3) Any changes to these regulations imposed by acts of the General Assembly.

The schedule set forth in this subsection shall modify the review and readoption schedule set by the Rules Review Commission under G.S. 150B-21.3A to the extent the schedules conflict. No later than December 31, 2016, the Department of Environmental Quality shall report to the Environmental Review Commission a list of any other rules and any acts of the General Assembly changing the rules identified in this subsection, and the Environmental Management Commission's review shall include the rules identified in this section and in that report. As part of its rule review process, the Environmental Management Commission shall (i) hold public hearings in the upstream and downstream portions of the Falls Lake and Jordan Lake river basins and subbasins and (ii) no later than December 31, 2016, convene a stakeholder working group that represents all classes of users and all geographic parts of the impacted river basins and subbasins and that will provide input to the Environmental Management Commission regarding the revision to the Nutrient Strategies. The Environmental Management Commission shall issue recommendations for revisions of the Nutrient Strategies based on its review and begin rule readoption required by G.S. 150B-21.3A no later than March 15, 2019. For purposes of the G.S. 150B-21.3A readoption process, the Nutrient Strategies shall be considered "necessary with substantive public interest."

**SECTION 14.13.(e)** The Department of Environmental Quality shall study alternative technologies for in situ approaches to nutrient management in Falls Lake and Jordan Lake. In its study, the Department shall consider in situ treatments, including algaecide and

phosphorus-locking technologies, that have been certified by the United States Environmental Protection Agency for use in drinking water sources. Of the funds appropriated in this act to the Department of Environmental Quality, the sum of one million three hundred thousand dollars (\$1,300,000) for the 2016-2017 fiscal year may be used to implement a trial of these technologies. If the Department decides to implement a trial, it shall enter into a contract for the trial by December 31, 2016. Any contract entered into under this subsection shall not be subject to Article 3 or Article 8 of Chapter 143 of the General Statutes. The study shall determine whether these treatments would provide improvements in water quality and whether the improvements would be more cost-effective than more conventional nutrient mitigation strategies. The Department shall submit an interim report no later than March 1, 2017, and a final report no later than March 1, 2018, to the Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division. If the Department finds these strategies to be effective, it shall incorporate them into the Nutrient Strategies readoption required by subsection (d) of this section. Funds allocated by this subsection shall remain available until the conclusion of the study, and any funds unused at that time shall revert to the General Fund.

**SECTION 14.13.(f)** Impervious surface added in a city or county within the Jordan Lake watershed after July 26, 2013, and prior to December 31, 2020, shall, notwithstanding any other provision of law or associated regulations adopted by the Environmental Management Commission, not be counted as built-upon area for purposes of a city's or county's calculation of nutrient loading targets under a Development Stormwater Rule. Pursuant to G.S. 153A-145.6 and G.S. 160A-205.1, cities and counties shall not enforce Development Stormwater Rules through any ordinance, code, standard, committed element, condition, or contractual obligation imposed by, agreed upon, or accepted by a county or city. For purposes of this subdivision, "Development Stormwater Rule" shall mean 15A NCAC 2B .0265 (Stormwater Management for New Development) and 15A NCAC 2B .0266 (Stormwater Management for Existing Development), or equivalent or more stringent ordinance, code, standard, or committed element related to nutrient-loading targets in the Jordan Lake watershed.

**SECTION 14.13.(g)** The Department of Environmental Quality shall study the following issues related to nutrient impact fees and other water quality impact mitigation programs in Jordan Lake and Falls Lake:

- (1) The impact, costs, and benefits of setting nutrient offset fees on a subbasin- or area-specific basis, together with an estimate of the subbasin-specific nutrient offset fees for each subbasin in the Jordan Lake and Falls Lake watersheds or area draining to a particular arm of Jordan Lake or Falls Lake.
- (2) Watersheds and river basins or subbasins where private providers of mitigation services are adequately serving existing and projected demand over the next five years, and whether (i) the continuing provision of mitigation services by the State in those areas is necessary and (ii) statutory authority to provide mitigation services in those areas should be totally or partially repealed.

The Department shall report no later than December 1, 2016, to the Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division regarding the results and recommendations from its study and any suggested legislation necessary to implement the recommendations.

**SECTION 14.13.(h)** The rules described below shall not take effect and are subject to the review and readoption required by subsection (d) of this section:

- (1) With respect to the Jordan Lake rules, as defined by subdivisions (2) and (3) of subsection (d) of this section, any rules with effective dates between the effective date of this act and October 15, 2019.
- (2) With respect to the Falls Lake rules, as defined by subdivisions (1) and (3) of subsection (d) of this section, any rules with effective dates between the effective date of this act and October 15, 2022.

**SECTION 14.13.(i)** Stormwater treatment practices that have been approved by the Chesapeake Bay Commission for TMDL compliance in the Chesapeake Bay watershed shall be allowed for TMDL compliance in the Jordan Lake and Falls Lake watersheds at the same pollutant removal efficiency value established for each such practice for the Chesapeake Bay watershed. The Department shall report no later than December 1, 2016, to the Environmental Review Commission, the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, and the Fiscal Research Division on the need and desirability of establishing State-specific pollutant removal efficiency values for the stormwater treatment practices allowed by this subsection. If the Department decides to establish State-specific values, it shall incorporate those values into the Nutrient Strategies readoption required by subsection (d) of this section.

**SECTION 14.13.(j)** Subsection (b) of this section becomes effective on the earlier of July 1, 2016, or the date of termination of a contract related to in situ water quality remediation strategies that was previously extended pursuant to Section 14.5 of S.L. 2015-241.



## Appendix C. Session Law 2018-5, Section 13.8

### GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2017

#### SESSION LAW 2018-5 SENATE BILL 99

#### SECTION 13.8

#### NUTRIENT MANAGEMENT REGULATORY FRAMEWORK REVISIONS

**SECTION 13.8.(a)** Subdivisions (1) and (2) of Section 14.13(c) of S.L. 2016-94 read as rewritten:

- "(1) With respect to Jordan Lake, the final results of its study and recommendations for further action (including any statutory or regulatory changes necessary to implement the recommendations) no later than December 31, ~~2018, 2019~~, with interim updates no later than December 31, 2016, ~~and~~ December 31, ~~2017, 2017~~, and December 31, 2018.
- (2) With respect to Falls Lake, the final results of its study and recommendations for further action (including any statutory or regulatory changes necessary to implement the recommendations) no later than December 31, ~~2021, 2023~~, with interim updates no later than December 31, 2019, and December 31, ~~2020, 2021~~."

**SECTION 13.8.(b)** Section 14.13(d) of S.L. 2016-94 reads as rewritten:

**"SECTION 14.13.(d)** As part of the periodic review and readoption of rules required by G.S. 150B-21.3A, the Environmental Management Commission shall, based on the study required by subsection (c) of this section and any monitoring or modeling study conducted pursuant to existing regulations as defined in this section, review the following Nutrient Strategies:

- (1) The Falls Water Supply Nutrient Strategy, 15A NCAC 2B .0275 through .0282 and .0315.
- (2) The Jordan Lake Water Supply Nutrient Strategy, 15A NCAC 2B .0263 through .0273 and .0311.
- (3) Any changes to these regulations imposed by acts of the General Assembly.

The schedule set forth in this subsection shall modify the review and readoption schedule set by the Rules Review Commission under G.S. 150B-21.3A to the extent the schedules conflict. No later than December 31, 2016, the Department of Environmental Quality shall report to the Environmental Review Commission a list of any other rules and any acts of the General Assembly changing the rules identified in this subsection, and the Environmental Management Commission's review shall include the rules identified in this section and in that report. As part of its rule review process, the Environmental Management Commission shall (i) hold public hearings in the upstream and downstream portions of the Falls Lake and Jordan Lake river basins and subbasins and (ii) no later than December 31, 2016, convene a stakeholder working group that represents all

classes of users and all geographic parts of the impacted river basins and subbasins and that will provide input to the Environmental Management Commission regarding the revision to the Nutrient Strategies. The Environmental Management Commission shall ~~issue recommendations for revisions of the Nutrient Strategies based on its review and begin rule readoption required by G.S. 150B-21.3A no later than March 15, 2019.~~ begin rule readoption for the Jordan Lake Water Supply Nutrient Strategy on the earlier of the following: (i) upon receipt of the completed study and final recommendations prepared in response to subsection (c) of this section and any monitoring or modeling study conducted pursuant to existing regulations for nutrient management in Jordan Lake or (ii) December 31, 2020. The Environmental Management Commission shall begin rule readoption for the Falls Water Supply Nutrient Strategy on the earlier of the following: (i) upon receipt of the completed study and final recommendations prepared in response to subsection (c) of this section and any monitoring or modeling study conducted pursuant to existing regulations for nutrient management in Falls Lake or (ii) December 31, 2024. For purposes of the G.S. 150B-21.3A readoption process, the Nutrient Strategies shall be considered "necessary with substantive public interest."

**SECTION 13.8.(c)** Section 14.13(h) of S.L. 2016-94 reads as rewritten:

"**SECTION 14.13.(h)** The rules described below shall not take effect and are subject to the review and readoption required by subsection (d) of this section:

- (1) With respect to the Jordan Lake rules, as defined by subdivisions (2) and (3) of subsection (d) of this section, any rules with effective dates ~~between the effective date of this act and October 15, 2019.~~ after July 1, 2016. Rules delayed under this subdivision will have the effective date specified in the rules as readopted under subsection (d) of this section.
- (2) With respect to the Falls Lake rules, as defined by subdivisions (1) and (3) of subsection (d) of this section, any rules with effective dates between the effective date of this act and October 15, ~~2022.~~ 2022, provided that provisions of the Falls Lake rules which establish Stage I reduction actions and goals shall remain in effect until the Falls Lake rules, as modified under subsection (d) of this section, become effective. The due dates for reduction actions and goals set to be completed by December 31, 2020, and the reduction actions and goals identified as Stage II in the Falls Lake rules are delayed until the Falls Lake rules, as modified under subsection (d) of this section, become effective."

**SECTION 13.8.(d)** Notwithstanding Section 27.5 of S.L. 2016-94, as amended by Section 10.4 of S.L. 2017-57, the North Carolina Policy Collaboratory is authorized to use for the purposes set forth in this subsection no more than one million dollars (\$1,000,000) for the 2018-2019 fiscal year of the funds appropriated for the 2016-2017 fiscal year to the Office of State Budget and Management, Special Appropriations, and allocated to the Board of Trustees of the University of North Carolina at Chapel Hill for use as matching funds by the Collaboratory. Notwithstanding Section 27.5 of S.L. 2016-94, as amended by Section 10.4 of S.L. 2017-57, no match is required for funds reallocated by this subsection.

The Collaboratory shall use these funds to create an updated quantitative model of Jordan Lake and the Haw River subbasin of the Cape Fear River based on the nutrient management study funded by Section 14.13(c) of S.L. 2016-94. The funds may also be utilized for personnel costs, data acquisition, and software licensing related to the model update project funded by this subsection, but the University of North Carolina at Chapel Hill shall not charge for overhead costs

against the funds reallocated by this subsection. Funds reallocated by this subsection shall not revert but shall continue to be available to the Collaboratory for the purposes described in this subsection.

**SECTION 13.8.(e)** In the report required by Section 14.13(c) of S.L. 2016-94, as amended by subsection (a) of this section, the Collaboratory shall present the results of the model authorized by subsection (d) of this section, along with (i) recommendations for revisions or additions to the Jordan Lake Water Supply Nutrient Strategy and (ii) identification and analysis of issues and areas identified by its study and model where no scientific consensus exists or where data is unavailable or incomplete.

## Appendix D. Outline for Reporting

### Summary Information for the participating jurisdiction:

- Local government submitting the annual report
- Minimum annual investment level specified in the UNRBA Bylaws
- Reporting period (fiscal year)
- Total investment for fiscal year (expended + committed for specific project(s))
- Carry over from previous year (not applicable the first year)
- Carry over to next fiscal year(s)
- Compliance with the minimum investment level (yes/no)
- Name of person submitting the report for this fiscal year (name, email, phone number)

### Project Level information:

- Repeat local government submitting report on each row/entry
  - Local government project identification number (user entered)
- Project type based on IAIA eligible practices (More descriptive information can be included in the narrative description column (last column). For more information and guidelines regarding these activities, refer to the IAIA Program Document.) Select from list of eligible practices:
  - Stormwater control measures (State-approved SCMs)
  - Green infrastructure and other best management practices (BMPs)
  - Stream and riparian buffer restoration and enhancement
  - Programmatic measures
  - Infrastructure improvements
  - Illicit discharge detection and elimination
  - Land conservation
  - Floodplain restoration and reconnection
  - Projects in greenways and parks with water quality and quantity benefits
  - Projects and activities that focus on flooding that have an associated water quality benefit
  - Operation and maintenance costs associated with preserving long-term functionality of practices implemented under the IAIA
  - Administrative costs associated with the participation in the IAIA
  - Allow user specified project type or other activity approved by DWR
- Funding option (select from drop down list)
  - Self-funded
  - Interlocal agreement
  - Other organization agreement
  - Special project (see description in UNRBA Bylaws)
- Location of project/activity
  - County (drop down list)
  - Latitude and longitude if applicable (user entered in separate columns if appropriate for the project type; may be the midpoint for projects covering large areas like parks; a narrative description of location may also be included in the project description (see last entry))

- Partners (user entered)
  - Managing organization or local government
  - Names of partners: local governments, organizations, etc.
- Benefits and linkages to water quality or water quantity improvement (Selection from drop down list; provide details in narrative description as appropriate):
  - Nutrients
  - Sediment
  - Peak flow reduction
  - Water storage
  - Other
- Additional benefits – user entered (e.g., ecosystem services benefits, sustainability, outreach, environmental justice, sustainability, resiliency, research, carbon sequestration, not applicable)
- Status of project/activity; selection from drop down list
  - Design, permitting
  - Site preparation
  - Construction/installation
  - In service
  - Operation and maintenance
  - Allow for user entered description
- Anticipated timeline (fiscal year) for completion for each project or activity
- Estimated total cost of project
- Funds committed for the project
- Cash funds expended for this fiscal year by the local government
- In-kind funds expended for this fiscal year by the local government
- Estimated annual total nitrogen reductions if quantifiable
- Estimated annual total phosphorus reductions if quantifiable
- Method for estimating nutrient credits (drop down + user entered)
  - SNAP
  - DWR Crediting document
  - Monitoring data
  - Other (user entered)
- Other tracking metric for activities without State-approved nutrient credits (user entered; list examples in comments)
  - Acres conserved
  - People reached
  - Septic systems pumped, etc.
- Date project or activity data was last updated in the database
- Initials of staff updating the database (optional as useful, not required)
- Narrative project description and benefits