



North Carolina Department of Environment and Natural Resources

Beverly Eaves Perdue
Governor

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Secretary

Important Changes to the Nutrient Offset Option Under Neuse, Tar-Pamlico and Jordan Nutrient Strategies Effective September 1, 2010

New rules will go into effect September 1, 2010 governing the use of offset payments in Neuse, Tar-Pamlico, and Jordan watersheds as well as under any future nutrient strategy. The NC Ecosystem Enhancement Program and NC Division of Water Quality have been working with affected parties and the NC Environmental Management Commission to develop the rules required by the General Assembly under Session Law 2007-438 et seq. On July 15, 2010, the EMC adopted two rules under Title 15A of NCAC, 2B .0240 and 2B .0274 - and on August 19, 2010 the NC Rules Review Commission approved them. The September 1 effective date satisfies a timeframe mandated under SL 2009-484.

Rule 2B .0240 is an amendment of the 2006 version and no longer contains EEP offset rates. It now addresses the procedural requirements for offset payments, including these changes from the 2006 version:

- Applies to private and other public offset providers in addition to EEP, as provided for in SL 2007-438 and SL 2009-337.
- Narrows geographic scope of offsets to within the same 8-digit USGS cataloguing unit, as required since 2007 by SL 2007-438 and SL 2009-337, to smaller watersheds as required by the Jordan and draft Falls nutrient strategies, and generally encourages locating projects within 10-digit hydrologic units where loading increases are concentrated.
- Sets out standards for offset project approval.
- Requires non-governmental parties that are seeking third-party offsets to utilize a provider other than EEP if such credits are available from those mitigation banks, as required by SL 2009-337.
- Clarifies that use of EEP in a given watershed is contingent upon EEP's ability to accept payments there.
- Requires payment for both nitrogen and phosphorus reductions when needed by a purchaser.

Rule 2B .0274 is new and establishes an "actual cost method" by which EEP will set its offset rates in compliance with requirements of SL 2007-438. The rule will also allow EEP to utilize the least-cost offset option as required by the session law. To meet these requirements the rule calls for general offset rates, with special offset rates reserved for the Falls watershed, Neuse 01 cataloguing unit below Falls watershed, the Jordan Lake watershed, and any 8-digit or smaller cataloguing unit where offset costs are at least 40% greater than those in the larger watershed in which it is nested. EEP will adjust rates at least annually every July 1st, and as much as quarterly if actual cost rates increase by 10% or more.

When these rules become effective, the EEP Nutrient Offset Payment Program will be one option potentially available for offset credit seekers under a nutrient strategy. Applicants who wish to participate in the EEP nutrient offset program will first need to request and obtain EEP approval in order to become eligible to make such a payment.

EEP's initial actual cost rates for the Offset Payment Program are as follows:

Watershed	Nutrient	EEP Rate Pre-9/1/10	EEP Rate Post-9/1/10
Neuse - Below 01	N	\$28.35	\$12.97
Neuse – 01 Below Falls	N	\$28.35	\$18.49
Neuse - Falls	N	\$28.35	\$18.49
Neuse – Falls	P	--	\$142.02
Tar-Pamlico	N	\$21.67	\$9.07
Tar-Pamlico	P	\$286.20	\$142.02
Jordan	N	--	\$18.49
Jordan	P	--	\$142.02

EEP will soon provide updated information on its Web page (www.nceep.net) including:

- procedures for requesting that EEP accept a payment for nutrient offset
- payment/invoicing procedures
- local government verification letter requirements
- updated fees (see above)
- information on the Actual Cost Method
- links to the revised and new rules

The rules are also available on DWQ's website at <http://portal.ncdenr.org/web/wq/ps/nps>. For questions regarding procedural requirements such as those in Rule 2B .0240, please contact one of the following DWQ staff:

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For questions regarding EEP's nutrient offset payment program, please contact:

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