

**DESCRIPTION OF EEP ROLE IN PROVIDING NUTRIENT REDUCTION  
MEASURES NECESSARY TO OFFSET PHOSPHOROUS LOADING  
REQUIREMENTS IN THE TAR-PAMLICO RIVER BASIN**

August, 2006

Both the Neuse River and the Tar-Pamlico River systems have experienced fish kills and other environmental harm as a result of high levels of nutrients in the water. The nutrients come from wastewater treatment plants' discharges and from runoff that carries nutrients off agricultural and developed lands. To address those problems, the General Assembly set goals for reduction of nutrients in both river systems. The goals must be met through a combination of limits on wastewater discharges and stormwater controls for development activities. Rules adopted by the Environmental Management Commission (EMC) allow for exceptions to the nutrient control standards if the person asking for the exception can provide mitigation for loss of the nutrient control. The Nutrient Offset Program is a voluntary program that was established by the EMC to give wastewater dischargers and developers who needed mitigation an option of paying a specified fee to the Riparian Buffer Restoration Fund, instead of carrying out a mitigation project themselves. The Riparian Buffer Restoration Fund is managed by the Ecosystem Enhancement Program (EEP) in the Department of Environment and Natural Resources (DENR). These offset payments are optional and are made completely at the discretion of the permittee, in place of developing their own mitigation project. The EEP can use these funds to construct nutrient controls within the river basin to achieve the needed nutrient reductions.

The original offset fee was established for the Neuse River Basin in 1998 and was set at \$11 per pound of nitrogen per year. The original fee was estimated without the benefit of historical costing data with an understanding that fee adjustments may be appropriate at later dates.

More recently and pursuant to directions from the EMC, staff completed an evaluation of the actual costs encountered in implementing the nutrient offset program. Following the evaluation, the fee for nitrogen offset was raised from \$11 to \$57 per pound per year. The offset fee for phosphorous (to be required in the Tar-Pamlico basin only) was set at \$45 per tenth of a pound per year. These fees were contained in EMC amendments to 15A NCAC 02B .0240, and the amendments became effective on March 1, 2006.

In the 2005 Session of the North Carolina General Assembly, a bill was enacted which resulted in the following calculations of the nutrient offset payments: The fee for nitrogen was established at \$11 per pound of nitrogen calculated in accordance with the method used prior to EMC action; and the fee for phosphorous was established at \$11 per tenth of a pound of phosphorous using the formula established in the amendments to 15A NCAC 02B .0240 which became effective in March of 2006. (SB 1862) In addition, a bill was enacted to allow DENR to: a) decline to accept a payment for phosphorous in the Tar-Pamlico River Basin if it finds the payment does not cover the full costs of necessary nutrient reduction measures; and b) to enter into contracts to provide the necessary nutrient reduction measures at the full costs. (SB 927)

The phosphorous loading requirements for a permittee may be partially offset by payments made to the Riparian Buffer Restoration Fund. The EEP will implement the provisions of SB 1862 and SB 927 to provide phosphorous reduction measures in the Tar-Pamlico River Basin as follows:

1. The appropriate local government advises the EEP in writing that it has reviewed the nutrient calculations made by the applicant, and the amount of phosphorous offset payment that is required, using a factor of \$11 per one tenth of a pound. The EEP will be requested to accept that payment. The calculation equation is provided in 15A NCAC 2B .0240(d). A copy of the request is also mailed to the applicant.
2. The EEP will check the total amount of phosphorous offset payment required, and will determine if it is sufficient to construct phosphorous reduction measures necessary to achieve compliance with phosphorous reduction requirements.
3. The EEP will advise the local government and the applicant in writing of its acceptance, its denial, or the conditions of its acceptance, of the request.
  - a. If the total amount of the request is sufficient to cover the full costs of required nutrient reduction measures, the EEP will ACCEPT that payment request.
  - b. If the total amount of the request, using a per pound factor of \$11 / .1 lb, is not sufficient to cover the full costs of required nutrient reduction measures, the EEP will DECLINE that payment request.

The EEP will then provide the local government and the applicant an estimate of the full cost of the required measures. The EEP will ACCEPT that payment amount as the EEP cost, or, in the alternative, the EEP will ACCEPT an initial payment based on the original calculation, using a per pound factor of \$11 / .1 lb rate, if accompanied by an executed agreement to pay the remaining EEP costs within six months. This agreement must be guaranteed by a performance bond or letter of credit payable to the EEP in an amount equal to the EEP cost.

4. When the applicant provides a check in the appropriate amount and any necessary contractual agreements, the EEP will provide a receipt to the applicant and a copy to the local government, to enable final approval of development plans to take place.