

**ANNOUNCEMENT OF PUBLIC HEARINGS AND COMMENT PERIOD FOR
RULES RELATED TO THE NUTRIENT OFFSET PAYMENT PROGRAM**

**NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION
NORTH CAROLINA DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES**

The North Carolina Division of Water Quality (DWQ) has established and implemented several sets of rules designed to manage waters of the state that have been negatively affected by nutrient enrichment. As part of these management strategies, in some cases, regulated entities have been given the option of making payments to third-party mitigation providers to achieve required nutrient reductions. The proposed rule (15A NCAC 2B .0274) and rule amendment (15A NCAC 2B .0240) associated with this announcement provide procedural mechanisms for the achievement of third-party nutrient reductions and create a mechanism for payments made to one third-party provider (the Ecosystem Enhancement Program, or EEP) to be based on rates set using actual program costs as required by the North Carolina General Assembly, or NCGA (Session Laws 2007-438 and 2009-484).

Public Hearings

EEP and DWQ have scheduled two public hearings on these proposed nutrient-offset rules. At the hearings, EEP and DWQ staff will provide a history and explanation of the rules and answer questions. The public will have opportunity to provide oral or written comments. Hearings have been set for the following dates and locations:

<u>Monday, March 22, 2010, 6:00 pm</u> Greenville, N.C. Pitt County Agriculture Extension Auditorium Pitt County Extension Center 403 Government Circle On Old Creek Rd. on the north side of S.R. 33 east of U.S. 13	<u>Tuesday, March 23, 2010, 6:00 pm</u> Raleigh, N.C. Archdale Building, Ground Floor Hearing Room 512 North Salisbury Street Downtown Raleigh – tall white building across the street from Peace College
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Background

Since 2001, developers and wastewater dischargers under the Neuse nutrient strategy have had the option to achieve partial nutrient load reductions under certain conditions through offset payments to EEP. Developers in the Tar-Pamlico River Basin gained the same option in 2004, and those in the Jordan Lake watershed will have this option beginning in 2012. In 2006, DWQ sought and the Environmental Management Commission adopted amendments to the Neuse Nutrient Offset Payments rule, [15A NCAC 02B .0240](#), that increased the nitrogen-offset rate, established a phosphorus rate and broadened applicability of these rates to all nutrient strategies.

Five months after the rule revision took effect, the NCGA approved [SL 2006-215](#), which rescinded the fee increase and called for a study into what rates should be set for this activity. After a study was conducted by the Research Triangle Institute and a [report](#) provided to the legislature, the NCGA approved [SL 2007-438](#) in 2007 that reset fees to be charged for nutrient buy-downs and directed the N.C. Department of Environment and Natural Resources to establish an approach to charging actual cost for nutrient reductions. Two [progress reports](#) on that

transition were made to the Environmental Review Commission in September 2008 and March 2009 in compliance with the 2007 legislation. In the 2009 NCGA session, the deadline for complying with the 2007 legislation was [extended by one year](#) to Sept. 1, 2010.

Rule-making Actions

In order to comply with legislative directives, two rule-making actions are being proposed. 15A NCAC 2B .0240 is proposed for amendment and contains procedural requirements affecting not only EEP but other providers of nutrient offsets. 15A NCAC 2B .0274 is proposed for establishment and contains the formula that EEP would use to set actual cost rates for their offsets. The proposed text of these rules is contained in the [Feb. 15, 2010 North Carolina Register](#) beginning on page 1316.

Submitting Comments

In addition to the hearings, interested parties may submit written comments on the proposed text of the rules between Feb. 15, 2010 and April 16, 2010. Anyone who is potentially affected by the proposals is encouraged to attend the hearings and/or provide comments by mail.

Please submit comments to:

Suzanne Klimek
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1652 Mail Service Center
Raleigh, NC 27699-1652

Suzanne.klimek@ncdenr.gov

Questions?

You can direct questions about the proposed rules to Suzanne Klimek at (828) 329-0871, or suzanne.klimek@ncdenr.gov.