

09/24/2009

**Nutrient Offset Program Statement of Compliance with
Session Law 2009-337
An Act to Promote the Use of Compensatory Mitigation Banks
[\(link to SL 2009-337\)](#)**

Prior to accessing the Ecosystem Enhancement Program (EEP) Nutrient Offset Program, all applicants are now required by law to comply with Session Law 2009-337 An Act to Promote the Use of Compensatory Mitigation Banks. All payments submitted on or after July 24, 2009 MUST include this form signed and dated by the permit applicant or an authorized agent. **Please also read EEP's refund policies (attached) prior to submitting your payment.**

Compliance Statement:

I have read and understand SL-2009-337 and have, to the best of my knowledge, complied with its requirements.

Please check all that apply:

_____ **Applicant is a Government Entity as defined in G.S. 143-214.11 and is not required to purchase credits from a mitigation bank.**

_____ **There are no known private mitigation banks with nutrient credits located in the hydrologic unit where this impact will take place [\(link to DWQ list\)](#).**

_____ **I have contacted the mitigation bank(s) in the hydrologic unit where the impacts will occur and credits are not available.**

_____ **My application was submitted to the local government prior to July 24, 2009, the effective date of this law.**

_____ **Use of a mitigation bank was not approved to provide the required mitigation for this project. (written confirmation from permitting agency required)**

Note: It is the applicant's responsibility to document any inquiries made to private mitigation banks regarding the availability of credits.

_____ **I have read and understand EEP's refund policies (attached)**
initial here

Signature of Applicant or Agent

Printed Name

Date

09/24/2009

Project Name

Location

Refund Policy for Fees Paid to EEP's In-Lieu Fee Programs (9/21/2009)

Purpose: The purpose of this policy is to make clear the circumstances and process under which a permittee can obtain a refund while simultaneously balancing customer service and responsible business practices. This policy applies to all refund requests made on or after the publication date of this policy.

Policy Statement: The policy of EEP is to allow for refunds under certain conditions.

1. All refund requests must be made in writing to EEP's In-Lieu Fee Program Coordinator at kelly.williams@ncdenr.gov.
2. All refund requests are subject to fund availability. EEP does not guarantee fund availability for any request.
3. The request must either come from the entity that made the payment or from an authorized agent. Third parties requesting refunds must provide written authorization from the entity that made the payment specifying the name and address of the authorized refund recipient.
4. Refund requests related to unintended overpayments, typographical errors or incorrect invoices should be brought the attention of the In-Lieu Fee Program Coordinator as soon as possible. Such requests are typically approved without delay.
5. Payments made under EEP's incremental payment procedure are not eligible for refunds.
6. Refund requests made within nine months of payment to EEP will only be considered for requests associated with projects that have been terminated or modified where the permittee's mitigation requirements have been reduced. Such requests must be accompanied by written verification from the permitting agency that the project has been cancelled, the permits have been rescinded or have been modified, or the mitigation requirements have been reduced.
7. Refund requests made more than nine months from the payment date will only be considered for permits that were terminated or modified to not require any mitigation. Such requests must be accompanied by written verification from the permitting agency that the project has been cancelled, the permits have been rescinded and/or mitigation is no longer required.
8. Refund requests not meeting the criteria specified above are not eligible for a refund.
9. Refund requests that meet the criteria above will be elevated to EEP Senior Management for review. The following considerations apply to all refund requests:
 - a. availability of funds after consideration of all existing project and regulatory obligations
 - b. the date the payment was made
 - c. the likelihood EEP can use the mitigation procured using the payment to meet other mitigation requirements
10. Once a refund has been approved, the refund recipient must provide a completed W-9 form to EEP's In-Lieu fee Program Coordinator within two weeks in order to process the refund through the State Controller's Office.
11. All decisions shall be final.