

**Clarifications on Accounting for N and P Offset Payments  
in the Tar-Pamlico River Basin**

March 25, 2009

EEP and DWQ offer the following observations on the nature of nutrient offset projects, clarifications on offset program history in the Tar-Pamlico Basin, and intent for practices here forward in watersheds that have goals for both N and P:

- A given nutrient offset project produces both N and P reductions, which can be used as offset credits that can be deducted from credit balances independently.
- A given development project may produce both N and P offset needs.
- The preempted rule 15A NCAC 2B .0240 (effective March 2006) called for calculating both costs and paying the higher total cost “to satisfy reductions for both N and P limits”.
- The rule was effectively preempted without being implemented and the EEP refunded the difference between the higher rate and the \$11 rate specified in Session Law 2006-215.
- Both SL 2006-215 and SL 2007-438 were silent on how credits were to be managed when both N and P offsets were required.
- Pursuant to the Session Law, EEP managed the program for Tar-Pamlico projects with the interpretation that the mitigation requirement for which EEP was responsible was for the nutrient associated with the mitigation payment. Payment letters to the program typically identified the one nutrient associated with the mitigation payment. Nutrient mitigation projects were debited for the one nutrient associated with the payment.
  
- As a result of the two-nutrient accounting issue being raised and discussed at the February nutrient offset Actual Cost Method stakeholders’ meeting, EEP and DWQ have met to validate the approach to be used in the Tar-Pamlico River Basin. EEP recognizes and agrees that both N and P offset values in developer submittals need to be and will be debited and tracked.
- Following the February stakeholders’ meeting, EEP reviewed and compiled data for additional N and P on all development projects to date and found the following:
  - Approximately 39 development projects that have purchased offsets from EEP in the Tar-Pamlico Basin to date have involved offset requirements for both nutrients.
  - Twenty five of these projects had additional Nitrogen reduction requirements while 14 had additional Phosphorus reduction requirements.
  - These additional requirements total approximately 17,124 lb N and 510 lb P.
  - EEP’s nutrient offset program has installed offset projects yielding N and P credits in sufficient quantities to cover all requirements when accounting for both nutrients associated with all payments.

- The EEP nutrient offset program has now deducted the full totals of both N and P (32,128 lbs and 2,869 lb respectively) offset needs from its balances and is fully compliant with reduction needs to date.
- As part of the upcoming rulemaking for the actual cost method, EEP and DWQ believe consideration should be given to a model under which developers with offset needs for both nutrients would be charged for each separately and would pay both resulting totals. The Actual Cost Method would yield rates reflecting the single nutrient fees rather than a hybrid fee that covers both nutrients since many users of the program may only be required to buy down one nutrient.