

Burgos, Alexander N

Subject: FW: [External] EMC Resubmission of 15A NCAC 02B .0733 Post-RRC Objection

From: Ascher, Seth M <seth.ascher@oah.nc.gov>

Sent: Friday, July 18, 2025 1:04 PM

To: Young, Elizabeth S <esyoung@ncdoj.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Rules, Oah <oah.rules@oah.nc.gov>

Cc: Everett, Jennifer <jennifer.everett@deq.nc.gov>

Subject: Re: [External] EMC Resubmission of 15A NCAC 02B .0733 Post-RRC Objection

Elly,

I have reviewed your submission, and I believe this resolves the Commission's objection. At this point, I anticipate recommending approval of the revised rule at July's meeting. I'll let you know if anything changes before then.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

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Burgos, Alexander N

From: Young, Elizabeth <esyoung@NCDOJ.GOV>
Sent: Friday, July 11, 2025 1:05 PM
To: Ascher, Seth M; Burgos, Alexander N; Rules, Oah
Cc: Everett, Jennifer
Subject: [External] EMC Resubmission of 15A NCAC 02B .0733 Post-RRC Objection
Attachments: 15A NCAC 02B .0733.docx

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Seth,

Pursuant to GS 150B-21.12, please find attached a revised version of Rule 15A NCAC 02B .0733 approved by the EMC at its July 10, 2025 meeting and being submitted to satisfy the RRC's June 26, 2025 Objection. The changes made in response to the Objection are highlighted in blue. Yellow highlights show changes made post-public comment, and green highlights show changes made in response to your prior requests for technical changes.

In the process of revising the rule, the EMC and staff at DEQ worked closely with the Tar-Pamlico Basin Association, the main group of discharges to whom this rule applies. The Association supports the changes made. Other stakeholders who had previously commented on the rule were also contacted and indicated that the changes made do not impact the comments and concerns they raised during the public comment period.

The EMC does not consider these changes to be substantial under GS 150B-21.2(g), as the allocation caps set forth in the prior version of the rule have not changed and are contained in relevant NPDES permits.

Please reach out with any questions, concerns, or further requests for changes.

Best,
Elly



Elly S. Young (she/her)
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Please note messages to or from this address may be public records.

1 15A NCAC 02B .0733 IS AMENDED AS PUBLISHED IN 39:13 NCR 784 WITH CHANGES AS FOLLOWS:

2
3 15A NCAC 02B .0733 TAR-PAMLICO NUTRIENT STRATEGY: WASTEWATER DISCHARGE
4 REQUIREMENTS ~~NEW AND EXPANDING WASTEWATER DISCHARGER~~
5 REQUIREMENTS

6 The following is the National Pollutant Discharge Elimination System (NPDES) wastewater discharge management
7 strategy for new and expanding wastewater dischargers in the Tar-Pamlico River basin:

- 8 (1) Purpose. The purpose of this Rule is to establish minimum nutrient control requirements for ~~new~~
9 ~~and expanding~~ point source discharges in the Tar-Pamlico River Basin in order to maintain or restore
10 water quality in the Pamlico Estuary and protect its designated uses.
- 11 (2) Applicability. This Rule applies to all discharges from wastewater treatment facilities in the Tar-
12 Pamlico River Basin that receive nitrogen- or phosphorus-bearing wastewater and are required to
13 obtain individual NPDES permits. ~~This Rule applies to Tar Pamlico Basin Association member~~
14 ~~facilities on or after June 1, 2025. This Rule applies to other facilities upon this Rule's effective date.~~
- 15 (3) Definitions. The terms used in this Rule, in regard to point source dischargers, treatment facilities,
16 wastewater flows or discharges, or like matters, shall be as defined in Rule .0701 of this Section and
17 as ~~follows:~~ follows; except that if the terms conflict, the terms in this Rule shall control:
- 18 (a) ["Active Allocation"] "Tar-Pamlico Active Allocation" means that portion of an allocation
19 that has been applied toward and is expressed as a nutrient [limit] Tar-Pamlico Limit in an
20 individual NPDES [permit.] permit for a discharger in the Tar-Pamlico River Basin;
- 21 (b) "Association" means the Tar-Pamlico Basin Association, a not-for-profit corporation
22 consisting of NPDES-permitted dischargers in the Tar-Pamlico River Basin; established
23 voluntarily by its members to work cooperatively to meet the aggregate Total Nitrogen
24 [TN] (TN) and Total Phosphorus [TP] (TP) allocations originally established in the Tar-
25 Pamlico Nutrient TMDL and subsequently in the group permit.
- 26 (c) "Commission" means the North Carolina Environmental Management Commission.
- 27 ~~(a)(d)~~ "Existing" means that which obtained an NPDES permit on or before December 8, 1994.
- 28 ~~(b)(e)~~ "Expanding" means that which increases beyond its permitted flow as defined in Sub-Item
29 (4)(h) Item (4) of this Rule.
- 30 (f) ["Limit"] "Tar-Pamlico Limit" means the mass quantity of nitrogen or phosphorus that a
31 discharger or group of dischargers is authorized through an NPDES permit to release into
32 surface waters of the Tar-Pamlico River Basin.
- 33 ~~(e)(g)~~ "New" means ~~that~~ a facility which had not obtained an NPDES permit on or before
34 December 8, 1994.
- 35 ~~(4)~~ (h) "Permitted flow" means the maximum monthly average flow authorized in a facility's
36 NPDES permit as of December 8, 1994.

- (i) ~~["Reserve Allocation"]~~ "Tar-Pamlico Reserve Allocation" means allocation that is held by a permittee or other person but that has not been applied toward and is not expressed as a nutrient ~~limit~~ Tar-Pamlico Limit in an individual NPDES ~~permit~~ permit of a discharger in the Tar-Pamlico River Basin:
- (4) This Item specifies the total combined end of pipe nitrogen and phosphorus discharge allocation for ~~existing Association point source dischargers~~ dischargers in accordance with the nutrient TMDL for the Pamlico River estuary approved in 1995 by the US Environmental Protection Agency.
- (a) Unless revised through permit modification as provided for in Items (7) through (9) of this Rule, ~~in accordance with the Nitrogen and Phosphorus TMDL for the Tar Pamlico River Estuary, approved in 1995 by the US Environmental Protection Agency (EPA)~~, the total ~~active~~ Tar-Pamlico Active Allocations for nitrogen and phosphorus discharge ~~allocations~~ [for Association point source dischargers shall not exceed 891,271 in pounds of nitrogen and 161,070 pounds of phosphorus per calendar year.] shall be based on a 30 percent reduction in TN from 1991 baseline end-of-pipe loading and no increase in TP and shall be specified in the NPDES group permit No. NC000002, including subsequent amendments and editions. The permit is available for public inspection at no cost at the Division of Water Resources, 512 North Salisbury Street, Raleigh, North Carolina 27604. The nutrient loads discharged annually by point sources covered by the NPDES group permit ~~these point sources~~ shall not collectively exceed these nitrogen and phosphorus discharge allocations plus any nutrient offset credits obtained in accordance with G.S. 143-214.26 and Rule .0703 of this Section. In the event the ~~Association's~~ allocations are revised as provided for in Items (7) through (9) of this Rule, the NPDES group permit shall be modified to reflect those changes. ~~changes to the active Tar Pamlico active allocations for nitrogen and phosphorus discharge mass allocations and limits Tar Pamlico limits set forth in this Rule.~~
- (b) Tar-Pamlico Reserve Allocations of 59,798 pounds of nitrogen and 3,898 pounds of phosphorus shall be held in reserve except to the extent they are approved for use in accordance with Sub-Items (6)(c) or (7)(e) of this Rule.
- ~~(b)(c)~~ (c) The Commission shall ~~order future revisions in~~ revise the Nitrogen and Phosphorus TMDL and nitrogen and phosphorus discharge allocations whenever necessary to ensure that water quality in the estuary meets all applicable standards in 15A NCAC 02B .0200 or to conform with applicable State or federal requirements.
- (5) This Item specifies the individual nitrogen and phosphorus discharge allocations for existing ~~Association~~ point source dischargers in accordance with the 1995 TMDL.
- (a) ~~Unless revised as provided for in Items (7) through (9) of this Rule, the following individual discharge mass allocations for total nitrogen and total phosphorus shall apply in conformance with the values in Item (4) of this Rule:]~~ Unless revised through permit

modification as provided for in Items (7) through (9) of this Rule, the individual Tar-Pamlico Active Allocations for nitrogen and phosphorus discharge allocations for existing point source dischargers shall be based on a 30 percent reduction in TN from 1991 baseline end-of-pipe loading and no increase in TP and shall be specified in their individual NPDES permits NPDES group permit No. NCC00002, including subsequent amendments and editions. These permits are available for public inspection at no cost at the Division of Water Resources, 512 North Salisbury Street Raleigh, North Carolina 27604.

Facility Name	NPDES No.	Mass Allocations (pounds/year)	
		Total Nitrogen	Total Phosphorus
Belhaven	NC0026492	14,261	2,577
Bunn	NC0042269	4,278	773
Enfield	NC0025402	14,261	2,577
Franklin County	NC0069311	42,784	7,732
Greenville	NC0023931	249,576	45,103
Louisburg	NC0020231	19,538	3,531
Oxford	NC0025054	49,915	9,021
Pinetops	NC0020435	4,278	773
Robersonville	NC0026042	25,671	4,639
Rocky Mount	NC0030317	299,491	54,124
Scotland Neck	NC0023337	9,626	1,740
Spring Hope	NC0020061	5,705	1,031
Tarboro	NC0020605	71,307	12,887
Warrenton	NC0020834	28,523	5,155
Washington	NC0020648	52,054	9,407
Association Total			
Active Allocation	Tar Pamlico Active Allocation	891,271	161,070
Allocation in Reserve	Tar Pamlico Reserve Allocation	59,798	3,898

- (b) In the event that the nitrogen and phosphorus TMDL and their discharge allocations for point sources are revised, as provided in ~~Item (4)~~ Sub-Item (4)(c) of this Rule, the Commission shall apportion the revised load among the existing facilities and shall revise discharge allocations. ~~allocations as needed.~~ The Commission ~~may~~ shall consider ~~such factors as:~~ factors, including:
- (i) fate and transport of nitrogen and phosphorus in the river basin;
 - (ii) technical feasibility and economic reasonableness of source reduction and treatment methods;

- (iii) economies of scale;
- (iv) nitrogen and phosphorus control measures already implemented;
- (v) probable need for growth and expansion; and
- (vi) incentives for nutrient management planning, utilities management, resource protection, and cooperative efforts among dischargers.
- ~~(5)~~(6) This Item specifies nutrient controls for new facilities.
- (a) ~~Proposed new wastewater dischargers~~ New facilities proposing to discharge wastewater shall evaluate all practical alternatives to surface water discharge pursuant to 15A NCAC 02H .0105(c)(2) prior to submitting an application to discharge.
- (b) New facilities shall document in their permit application that they have acquired some combination of the following allocations and offsets sufficient to meet the annual [limits] Tar-Pamlico Limits required elsewhere in this Item for the proposed discharge:
- (i) nitrogen and phosphorus allocations from existing dischargers;
- (ii) [reserve allocation] Tar-Pamlico Reserve Allocation pursuant to Sub-Item (c) of this Item; and
- (iii) nitrogen and phosphorus offset credits pursuant to Rule .0703 of this Section. Allocation and offset credits shall be sufficient for no less than 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(c).
- (c) New facilities proposing to use any portion of the [reserve allocation] Tar-Pamlico Reserve Allocation described in Sub-Item ~~(5)(a)~~ (4)(b) of this Rule shall submit a written request to the Division for approval of the proposed use. The request shall include concurrence for its use by the Association.
- ~~(b)~~(d) New facilities shall meet The technology-based nitrogen and phosphorus discharge [limits] Tar-Pamlico Limits that shall not exceed the following: for a new facility shall not exceed:
- (i) For facilities treating municipal or domestic wastewater, the mass load equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP at the monthly average flow limit in the facility's NPDES permit; and
- (ii) For facilities treating industrial wastewater, the mass load equivalent to the best available technology economically achievable, calculated at the monthly average flow limit in the facility's NPDES permit.
- ~~(e)~~ Proposed new dischargers submitting an application shall acquire nutrient allocation from existing dischargers or nutrient offset credits pursuant to Rule .0703 of this Section for the mass load dictated by this Item. The allocation and offset credits shall be sufficient for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(e).
- ~~(d)~~ The Director shall not issue a permit authorizing discharge from a new facility unless the applicant has satisfied the requirements of Sub Items (a), (c), and (e) of this Item. If a

- 1 facility's permit contains tiered flow limits for expansion, the Director shall not authorize
2 an increased discharge unless the applicant has satisfied the requirements of Sub-Items (a),
3 (e), and (e) of this Item.
- 4 (e) Subsequent applications for permit renewal or, where an existing permit will contain tiered
5 ~~[limits]~~ Tar-Pamlico Limits requests to discharge at an increased flow, shall demonstrate
6 that the facility has sufficient nitrogen and phosphorus allocation or offset credits to meet
7 its effluent nutrient ~~[limitations]~~ Tar-Pamlico Limitations for any partial calendar year in
8 which the permit becomes effective plus 10 subsequent years of discharge at the proposed
9 an increased design flow rate in accordance with 15A NCAC 02H .0112(c).
- 10 (f) The Director shall not issue a permit authorizing discharge from a new facility unless the
11 applicant has satisfied the requirements of Sub-Items (a) through (d) of this Item. If a
12 facility's permit contains tiered flow ~~[limits]~~ Tar-Pamlico Limits for expansion, the
13 Director shall not authorize an increased discharge unless the applicant has satisfied the
14 same requirements of this Item.
- 15 ~~(f)(g)~~ The Director shall establish more stringent ~~[limits]~~ Tar-Pamlico Limits for nitrogen or
16 phosphorus upon finding that such ~~[limits]~~ Tar-Pamlico Limits are necessary to protect
17 water quality standards in localized ~~[areas]~~ areas, in accordance with G.S. 143-215.1.
- 18 ~~(6)(7)~~ This Item specifies nutrient controls for expanding facilities.
- 19 (a) Expanding facilities shall evaluate all practical alternatives to surface water discharge
20 pursuant to 15A NCAC 02H .0105(c)(2) prior to submitting an application to discharge.
- 21 (b) The nitrogen and phosphorus discharge ~~[limits]~~ Tar-Pamlico Limits for expanding non-
22 Association facilities shall be assigned in accordance with the following:
- 23 (i) Expanding non-Association municipal or domestic wastewater facilities
24 requesting permitted flows greater or equal to 0.1 MGD shall be assigned the mass
25 equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP at the monthly
26 average flow limit in the facility's NPDES permit; and
- 27 (ii) Expanding non-Association facilities treating industrial wastewater shall be
28 assigned the mass load equivalent to the best available technology economically
29 achievable, calculated at the monthly average flow limit in the facility's NPDES
30 permit.
- 31 (c) An expanding facility that is a member of the Association, as defined in Sub-Item (3)(b)
32 of this Rule, shall not exceed the nitrogen and phosphorus loads equivalent to its ~~[active~~
33 ~~allocations]~~ Tar-Pamlico Active Allocations unless they receive Division approval for an
34 increase in their discharge as described in this Item.
- 35 (d) Facilities submitting application for increased discharge or, where an existing permit will
36 contain tiered ~~[limits]~~ Tar-Pamlico Limits for authorization to discharge at an increased
37 flow, may acquire nitrogen and phosphorus allocations from existing dischargers or

nitrogen and phosphorus offset credits pursuant to Rule .0703 of this Section, or may acquire [reserve allocation] Tar-Pamlico Reserve Allocation in compliance with Sub-Item (e) of this Item for the proposed discharge. The acquired allocations and offset credits, combined with any preexisting allocations, shall be sufficient to meet its effluent nutrient [limits] Tar-Pamlico Limits as established in this item for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at an increased design flow rate in accordance with 15A NCAC 02H .0112(c).

(e) A facility that submits an application to increase its discharge may request approval from the Division to use a portion of the [reserve allocation] Tar-Pamlico Reserve Allocation described in Sub-Item ~~(5)(a)~~ (4)(b) of this Rule. Approval shall be based on the following criteria:

(i) The expanding facility demonstrates that upon expansion their nitrogen and phosphorus discharge would not exceed the mass load equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP, calculated at the monthly average flow limit in the facility's NPDES permit;

(ii) The expanding facility requesting use of [reserve allocation] Tar-Pamlico Reserve Allocation has received written approval from the Association.

(iii) Should the facility cease to discharge, the portion of the [reserve allocation] Tar-Pamlico Reserve Allocation that was activated shall revert back to [reserve allocation] Tar-Pamlico Reserve Allocation; and

(f) The Director shall not issue an NPDES permit authorizing increased discharge from an existing facility unless the applicant has satisfied the requirements of Sub-Items (a) through (e) of this Item. If a facility's permit contains tiered flow limits for expansion, the Director shall not authorize discharge at an increased flow unless the applicant has satisfied the same requirements of this Item.

~~(f)~~(g) The Director shall modify an expanding facility's permit to establish more stringent [limits] Tar-Pamlico Limits for nitrogen or phosphorus upon finding that such [limits] Tar-Pamlico Limits are necessary to protect water quality standards in localized areas.

~~(b)~~ The nitrogen and phosphorus discharge limits for an expanding facility shall not exceed the greater of loads equivalent to its active allocation and offset credit, or the following technology-based mass limits:

(i) For facilities treating municipal or domestic wastewater, the mass equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP at the monthly average flow limit in the NPDES permit; and

(ii) For facilities treating industrial wastewater, the mass load equivalent to the best available technology economically achievable, calculated at the monthly average flow limit in the facility's NPDES permit.

- (e) ~~Facilities submitting application for increased discharge or, where an existing permit contains tiered flow limits, for authorization to discharge at an increased flow, shall acquire or demonstrate contractual agreement to acquire, prior to authorization to discharge at the increased flow, nutrient allocation from existing dischargers or nutrient offset credits pursuant to Rule .0703 of this Section for the proposed discharge above 0.5 million gallons per day (MGD). The allocation and offset credits shall be sufficient to meet its effluent nutrient limitations for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(c).~~
- (d) ~~The Director shall not issue a permit authorizing increased discharge from an existing facility unless the applicant has satisfied the requirements of Sub Items (a), (c), and (e) of this Item. If a facility's permit contains tiered flow limits for expansion, the Director shall not authorize discharge at an increased flow unless the applicant has satisfied the requirements of Sub Items (a), (c), and (e) of this Item.~~
- (e) ~~Subsequent applications for permit renewal shall demonstrate that the facility has sufficient nitrogen allocation or offset credits to meet its effluent nutrient limitations for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(c).~~
- (g) ~~Existing wastewater dischargers expanding to greater than 0.5 MGD design capacity may petition the Director for an exemption from Sub Items (a) through (c) and (e) (a), (b), (d), and (e) of this Item upon meeting and maintaining all of the following conditions:~~
- (i) ~~The facility has reduced its annual average TN and TP loading by 30 percent from its annual average 1991 TN and TP loading. Industrial facilities may alternatively demonstrate that nitrogen and phosphorus are not part of the waste stream above background levels.~~
- (ii) ~~The expansion does not result in annual average TN or TP loading greater than 70 percent of the 1991 annual average TN or TP load. Permit limits shall be established to ensure that the 70 percent load is not exceeded.~~
- (8) This Item describes the option for dischargers to form a group compliance association or join an existing group compliance association, to collectively meet nitrogen and phosphorus load [limits.] Tar-Pamlico Limits.
- (a) Any or all facilities within the basin may form a group compliance association or join an existing group compliance association, to meet nitrogen and phosphorus [limits] Tar-Pamlico Limits collectively. Any new association formed shall apply for and shall be subject to an NPDES group permit that establishes the effective total nitrogen and phosphorus [limits] Tar-Pamlico Limits for the association and for its members. More than

- one group compliance association may be established. No facility may be a co-permittee member of more than one association formed pursuant to this Rule at any given time.
- (b) The Tar-Pamlico Basin Association, voluntarily established in 1989, is an established group compliance association that operates under NPDES group permit No. NCC000002. The nitrogen and phosphorus discharge allocation for Association members shall be specified in this permit, as referenced in Sub-Item (4)(a) of this Rule.
- ~~(b)~~ (c) An association may modify its membership at any time upon notification to the Division. The Division shall adjust the nitrogen and phosphorus allocations and ~~limits~~ Tar-Pamlico Limits in the NPDES group permit to reflect the change in membership.
- ~~(c)~~ (d) No later than 180 days prior to coverage under a new NPDES group permit, or expiration of an existing group permit, the association and its members shall submit an application for an NPDES permit for the discharge of total nitrogen and total phosphorus to the surface waters of the Tar-Pamlico River Basin. The NPDES group permit shall be issued to the association and its members as co-permittees.
- ~~(d)~~ (e) An association's ~~limit~~ Tar-Pamlico Limit of total nitrogen and total phosphorus shall be the sum of its members' individual allocations and nutrient offset credits plus any other allocation and offset credits obtained by the association or its members pursuant to this Rule.
- ~~(e)~~ (f) An association and its members may reapportion their individual allocations and nutrient offset credits on an annual basis. The NPDES group permit shall be modified to reflect the revised individual allocations and ~~limits~~ Tar-Pamlico Limits.
- ~~(f)~~ (g) If an association does not meet its ~~limits~~ Tar-Pamlico Limits in any year, it shall obtain or use existing nutrient offset credits in accordance with G.S. 143-214.26 and Rule .0703 of this Section to offset its mass exceedance no later than July 1 of the following year.
- ~~(g)~~ (h) An association's members shall be deemed compliant with the permit ~~limits~~ Tar-Pamlico Limits for total nitrogen and total phosphorus contained in their individually issued NPDES permits while they are members in an association. An association's members shall be deemed compliant with their individual ~~limits~~ Tar-Pamlico Limits in the NPDES group permit in any year in which the association is in compliance with its ~~limits~~ Tar-Pamlico Limits. If the association exceeds its group ~~limit~~ Tar-Pamlico Limit, the association and any members that exceed their individual ~~limits~~ Tar-Pamlico Limits in the NPDES group permit shall be deemed to be out of compliance with the group permit.
- ~~(h)~~ (i) Upon the termination of a group compliance association, members of the association shall be subject to the ~~limits~~ Tar-Pamlico Limits and other nutrient requirements of their individual NPDES permits.
- (9) If an NPDES-permitted discharger or association of dischargers accepts wastewater from another NPDES-permitted treatment facility in the Tar-Pamlico River Basin and that acceptance results in

1 the elimination of the discharge from that other treatment facility, the eliminated facility's total
2 nitrogen and phosphorus allocations shall be transferred into the receiving facility's NPDES permit
3 and added to its allocations.
4

5 *History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); 143-215.8B; 143B-282;*
6 *Eff. April 1, 1997;*
7 *Recodified from 15A NCAC 02B .0229 Eff. April 1, 2020;*
8 *Readopted April 1, 2020.*
9 *Amended Eff. July 1, 2025.*

Burgos, Alexander N

Subject: FW: [External] RE: RFC for 15A NCAC 02B .0733

From: Young, Elizabeth <esyoung@NCDOJ.GOV>
Sent: Thursday, June 26, 2025 4:44 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Burgos, Alexander N <alexander.burgos@oah.nc.gov>
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Got it. Thanks Seth. I'll be in touch.



Elly S. Young (she/her)
Assistant Attorney General
Environmental Division
Commissions, Coastal and Administrative Section
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Subject: Re: [External] RE: RFC for 15A NCAC 02B .0733

Elly,

Attached is a letter memorializing the RRC's action at today's meeting. Please let me know if you have any questions.

Seth Ascher

Counsel to the North Carolina Rules Review Commission

Office of Administrative Hearings

(984) 236-1934

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Subject: Re: RFC for 15A NCAC 02B .0733

Good afternoon,

Attached is my staff opinion recommending objection to this rule. Please let me know if you have any questions.

Seth Ascher
Counsel to the North Carolina Rules Review Commission
Office of Administrative Hearings
(984) 236-1934

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Hi Seth,

Attached are the responses to your technical change requests and the rewritten rule regarding 15A NCAC 02B .0733.

Thank you!

Jennifer Everett
DEQ Rulemaking Coordinator
N.C. Depart. Of Environmental Quality
Office of General Counsel
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Tele: (919)-707-8595
<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

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5 REQUIREMENTS

6 The following is the National Pollutant Discharge Elimination System (NPDES) wastewater discharge management
7 strategy for new and expanding wastewater dischargers in the Tar-Pamlico River basin:

- 8 (1) Purpose. The purpose of this Rule is to establish minimum nutrient control requirements for ~~new~~
9 ~~and expanding~~ point source discharges in the Tar-Pamlico River Basin in order to maintain or restore
10 water quality in the Pamlico Estuary and protect its designated uses.
- 11 (2) Applicability. This Rule applies to all discharges from wastewater treatment facilities in the Tar-
12 Pamlico River Basin that receive nitrogen- or phosphorus-bearing wastewater and are required to
13 obtain individual NPDES permits. ~~This Rule applies to Tar Pamlico Basin Association member~~
14 ~~facilities on or after June 1, 2025. This Rule applies to other facilities upon this Rule's effective date.~~
- 15 (3) Definitions. The terms used in this Rule, in regard to point source dischargers, treatment facilities,
16 wastewater flows or discharges, or like matters, shall be as defined in Rule .0701 of this Section and
17 as ~~follows:~~ follows; except that if the terms conflict, the terms in this Rule shall control:
- 18 (a) ["Active Allocation"] "Tar-Pamlico Active Allocation" means that portion of an allocation
19 that has been applied toward and is expressed as a nutrient [limit] Tar-Pamlico limit in an
20 individual NPDES [permit.] permit for a discharger in the Tar-Pamlico River Basin.
- 21 (b) "Association" means the Tar-Pamlico Basin Association, a not-for-profit corporation
22 consisting of NPDES-permitted dischargers in the Tar-Pamlico River Basin; established
23 voluntarily by its members to work cooperatively to meet the aggregate Total Nitrogen
24 [TN] (TN) and Total Phosphorus [TP] (TP) allocations originally established in the Tar-
25 Pamlico Nutrient TMDL and subsequently in the group permit.
- 26 (c) "Commission" means the North Carolina Environmental Management Commission.
- 27 ~~(a)(d)~~ "Existing" means that which obtained an NPDES permit on or before December 8, 1994.
- 28 ~~(b)(e)~~ "Expanding" means that which increases beyond its permitted flow as defined in Sub-Item
29 (4)(h) Item (4) of this Rule.
- 30 (f) ["Limit"] "Tar-Pamlico Limit" means the mass quantity of nitrogen or phosphorus that a
31 discharger or group of dischargers is authorized through an NPDES permit to release into
32 surface waters of the Tar-Pamlico River Basin.
- 33 ~~(e)(g)~~ "New" means ~~that~~ a facility which had not obtained an NPDES permit on or before
34 December 8, 1994.
- 35 ~~(4)~~ (h) "Permitted flow" means the maximum monthly average flow authorized in a facility's
36 NPDES permit as of December 8, 1994.

(i) ~~["Reserve Allocation"]~~ **"Tar-Pamlico Reserve Allocation"** means allocation that is held by a permittee or other person but that has not been applied toward and is not expressed as a nutrient ~~limit~~ **Tar-Pamlico limits** in an individual NPDES ~~permit~~ **permit of a discharger in the Tar-Pamlico River Basin:**

(4) This Item specifies the total combined end of pipe nitrogen and phosphorus discharge allocation for existing Association point source dischargers.

(a) Unless revised as provided for in Items (7) through (9) of this Rule, in accordance with the Nitrogen and Phosphorus TMDL for the Tar-Pamlico River Estuary, approved in 1995 by the US Environmental Protection Agency (EPA), the total ~~active~~ **Tar-Pamlico active allocations** for nitrogen and phosphorus discharge ~~allocations~~ for Association point source dischargers shall not exceed 891,271 in pounds of nitrogen and 161,070 pounds of phosphorus per calendar year. The nutrient loads discharged annually by these point sources shall not exceed these nitrogen and phosphorus discharge allocations plus any nutrient offset credits obtained in accordance with G.S. 143-214.26 and Rule .0703 of this Section. In the event the Association's allocations are revised as provided for in Items (7) through (9) of this Rule, the NPDES group permit shall be modified to reflect those changes to the ~~active~~ **Tar-Pamlico active allocations** for nitrogen and phosphorus discharge mass allocations and ~~limits~~ **Tar-Pamlico limits** set forth in this Rule.

(b) The Commission shall ~~order future revisions in~~ **revise** the Nitrogen and Phosphorus TMDL and nitrogen and phosphorus discharge allocations whenever necessary to ensure that water quality in the estuary meets all applicable standards in 15A NCAC 02B .0200 or to conform with applicable State or federal requirements.

(5) This Item specifies the individual nitrogen and phosphorus discharge allocations for existing Association point source dischargers in accordance with the 1995 TMDL.

(a) Unless revised **through permit modifications** as provided for in Items (7) through (9) of this Rule, the following individual discharge mass allocations for total nitrogen and total phosphorus shall apply in conformance with the values in Item (4) of this Rule:

Facility Name	NPDES No.	Mass Allocations (pounds/year)	
		Total Nitrogen	Total Phosphorus
Belhaven Wastewater Treatment Plant (WWTP)	NC0026492	14,261	2,577
Bunn WWTP	NC0042269	4,278	773
Enfield WWTP	NC0025402	14,261	2,577
Franklin County WWTP	NC0069311	42,784	7,732
[Greenville] Greenville Utilities Commission WWTP	NC0023931	249,576	45,103
Louisburg WWTP	NC0020231	19,538	3,531
Oxford WWTP	NC0025054	49,915	9,021

Pinetops WWTP	NC0020435	4,278	773
Robersonville WWTP	NC0026042	25,671	4,639
[Rocky Mount] Tar River Regional WWTP	NC0030317	299,491	54,124
Scotland Neck WWTP	NC0023337	9,626	1,740
Spring Hope WWTP	NC0020061	5,705	1,031
Tarboro WWTP	NC0020605	71,307	12,887
Warrenton WWTP	NC0020834	28,523	5,155
Washington WWTP	NC0020648	52,054	9,407
Association Total WWTP			
[Active Allocation] Tar-Pamlico Active Allocation		891,271	161,070
[Allocation in Reserve] Tar-Pamlico Reserve Allocation		59,798	3,898

(b) In the event that the nitrogen and phosphorus TMDL and their discharge allocations for point sources are revised, as provided in ~~[Item (4)]~~ **Sub-Item (4)(b)** of this Rule, the Commission shall apportion the revised load among the existing facilities and shall revise discharge **allocations** ~~[allocations as needed]~~. The Commission ~~[may]~~ **shall** consider ~~[such factors as:]~~ **factors, including:**

- (i) fate and transport of nitrogen and phosphorus in the river basin;
- (ii) technical feasibility and economic reasonableness of source reduction and treatment methods;
- (iii) economies of scale;
- (iv) nitrogen and phosphorus control measures already implemented;
- (v) probable need for growth and expansion; and
- (vi) incentives for nutrient management planning, utilities management, resource protection, and cooperative efforts among dischargers.

~~(5)(6)~~ This Item specifies nutrient controls for new facilities.

(a) ~~Proposed new wastewater dischargers~~ **New facilities proposing to discharge wastewater** shall evaluate all practical alternatives to surface water discharge pursuant to 15A NCAC 02H .0105(c)(2) prior to submitting an application to discharge.

(b) New facilities shall document in their permit application that they have acquired some combination of the following allocations and offsets sufficient to meet the annual ~~[limits]~~ **Tar-Pamlico limits** required elsewhere in this Item for the proposed discharge:

- (i) nitrogen and phosphorus allocations from existing dischargers;
- (ii) ~~[reserve allocation]~~ **Tar-Pamlico reserve allocation** pursuant to Sub-Item (c) of this Item; and
- (iii) nitrogen and phosphorus offset credits pursuant to Rule .0703 of this Section.

- Allocation and offset credits shall be sufficient for no less than 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(c).
- (c) New facilities proposing to use any portion of the reserve allocation Tar-Pamlico reserve allocation described in Sub-Item (5)(a) of this Rule shall submit a written request to the Division for approval of the proposed use. The request shall include concurrence for its use by the Association.
- ~~(b)(d)~~ New facilities shall meet ~~The~~ technology-based nitrogen and phosphorus discharge limits Tar-Pamlico limits that shall not exceed the following: ~~for a new facility shall not exceed:~~
- (i) For facilities treating municipal or domestic wastewater, the mass load equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP at the monthly average flow limit in the facility's NPDES permit; and
 - (ii) For facilities treating industrial wastewater, the mass load equivalent to the best available technology economically achievable, calculated at the monthly average flow limit in the facility's NPDES permit.
- ~~(e)~~ ~~Proposed new dischargers submitting an application shall acquire nutrient allocation from existing dischargers or nutrient offset credits pursuant to Rule .0703 of this Section for the mass load dictated by this Item. The allocation and offset credits shall be sufficient for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(e).~~
- ~~(d)~~ ~~The Director shall not issue a permit authorizing discharge from a new facility unless the applicant has satisfied the requirements of Sub Items (a), (e), and (e) of this Item. If a facility's permit contains tiered flow limits for expansion, the Director shall not authorize an increased discharge unless the applicant has satisfied the requirements of Sub Items (a), (e), and (e) of this Item.~~
- (e) Subsequent applications for permit renewal ~~or, where an existing permit will contain tiered~~ limits Tar-Pamlico limits requests to discharge at an increased flow, shall demonstrate that the facility has sufficient nitrogen and phosphorus allocation or offset credits to meet its effluent nutrient limitations Tar-Pamlico limitations for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at ~~the proposed~~ an increased design flow rate in accordance with 15A NCAC 02H .0112(c).
- ~~(f)~~ ~~The Director shall not issue a permit authorizing discharge from a new facility unless the applicant has satisfied the requirements of Sub-Items (a) through (d) of this Item. If a facility's permit contains tiered flow~~ limits Tar-Pamlico limits ~~for expansion, the Director shall not authorize an increased discharge unless the applicant has satisfied the same requirements of this Item.~~

- (f)(g) The Director shall establish more stringent ~~[limits]~~ Tar-Pamlico limits for nitrogen or phosphorus upon finding that such ~~[limits]~~ Tar-Pamlico limits are necessary to protect water quality standards in localized ~~[areas]~~ areas, in accordance with G.S. 143-215.1
- (6)(7) This Item specifies nutrient controls for expanding facilities.
- (a) Expanding facilities shall evaluate all practical alternatives to surface water discharge pursuant to 15A NCAC 02H .0105(c)(2) prior to submitting an application to discharge.
- (b) The nitrogen and phosphorus discharge ~~[limits]~~ Tar-Pamlico limits for expanding non-Association facilities shall be assigned in accordance with the following:
- (i) Expanding non-Association municipal or domestic wastewater facilities requesting permitted flows greater or equal to 0.1 MGD shall be assigned the mass equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP at the monthly average flow limit in the facility's NPDES permit; and
- (ii) Expanding non-Association facilities treating industrial wastewater shall be assigned the mass load equivalent to the best available technology economically achievable, calculated at the monthly average flow limit in the facility's NPDES permit.
- (c) An expanding facility that is a member of the Association, as defined in Sub-Item (3)(b) of this Rule, shall not exceed the nitrogen and phosphorus loads equivalent to its ~~[active allocations]~~ Tar-Pamlico active allocations unless they receive Division approval for an increase in their discharge as described in this Item.
- (d) Facilities submitting application for increased discharge or, where an existing permit will contain tiered ~~[limits]~~ Tar-Pamlico limits for authorization to discharge at an increased flow, may acquire nitrogen and phosphorus allocations from existing dischargers or nitrogen and phosphorus offset credits pursuant to Rule .0703 of this Section, or may acquire ~~[reserve allocation]~~ Tar-Pamlico reserve allocation in compliance with Sub-Item (e) of this Item for the proposed discharge. The acquired allocations and offset credits, combined with any preexisting allocations, shall be sufficient to meet its effluent nutrient ~~[limits]~~ Tar-Pamlico limits as established in this item for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at an increased design flow rate in accordance with 15A NCAC 02H .0112(c).
- (e) A facility that submits an application to increase its discharge may request approval from the Division to use a portion of the ~~[reserve allocation]~~ Tar-Pamlico reserve allocation described in Sub-Item (5)(a) of this Rule. Approval shall be based on the following criteria:
- (i) The expanding facility demonstrates that upon expansion their nitrogen and phosphorus discharge would not exceed the mass load equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP, calculated at the monthly average flow limit in the facility's NPDES permit;

- (ii) The expanding facility requesting use of [reserve allocation] Tar-Pamlico reserve allocation has received written approval from the Association.
- (iii) Should the facility cease to discharge, the portion of the [reserve allocation] Tar-Pamlico reserve allocation that was activated shall revert back to [reserve allocation] Tar-Pamlico reserve allocation; and
- (f) The Director shall not issue an NPDES permit authorizing increased discharge from an existing facility unless the applicant has satisfied the requirements of Sub-Items (a) through (e) of this Item. If a facility's permit contains tiered flow limits for expansion, the Director shall not authorize discharge at an increased flow unless the applicant has satisfied the same requirements of this Item.
- (f)(g) The Director shall modify an expanding facility's permit to establish more stringent [limits] Tar-Pamlico limits for nitrogen or phosphorus upon finding that such [limits] Tar-Pamlico limits are necessary to protect water quality standards in localized areas.
- ~~(b) The nitrogen and phosphorus discharge limits for an expanding facility shall not exceed the greater of loads equivalent to its active allocation and offset credit, or the following technology-based mass limits:~~
- ~~(i) For facilities treating municipal or domestic wastewater, the mass equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP at the monthly average flow limit in the NPDES permit; and~~
- ~~(ii) For facilities treating industrial wastewater, the mass load equivalent to the best available technology economically achievable, calculated at the monthly average flow limit in the facility's NPDES permit.~~
- ~~(c) Facilities submitting application for increased discharge or, where an existing permit contains tiered flow limits, for authorization to discharge at an increased flow, shall acquire or demonstrate contractual agreement to acquire, prior to authorization to discharge at the increased flow, nutrient allocation from existing dischargers or nutrient offset credits pursuant to Rule .0703 of this Section for the proposed discharge above 0.5 million gallons per day (MGD). The allocation and offset credits shall be sufficient to meet its effluent nutrient limitations for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(e).~~
- ~~(d) The Director shall not issue a permit authorizing increased discharge from an existing facility unless the applicant has satisfied the requirements of Sub-Items (a), (c), and (e) of this Item. If a facility's permit contains tiered flow limits for expansion, the Director shall not authorize discharge at an increased flow unless the applicant has satisfied the requirements of Sub-Items (a), (c), and (e) of this Item.~~

- (e) Subsequent applications for permit renewal shall demonstrate that the facility has sufficient nitrogen allocation or offset credits to meet its effluent nutrient limitations for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(e).
- (g) Existing wastewater dischargers expanding to greater than 0.5 MGD design capacity may petition the Director for an exemption from Sub Items (a) through (e) and (e) (a), (b), (d), and (e) of this Item upon meeting and maintaining all of the following conditions:
- (i) The facility has reduced its annual average TN and TP loading by 30 percent from its annual average 1991 TN and TP loading. Industrial facilities may alternatively demonstrate that nitrogen and phosphorus are not part of the waste stream above background levels.
- (ii) The expansion does not result in annual average TN or TP loading greater than 70 percent of the 1991 annual average TN or TP load. Permit limits shall be established to ensure that the 70 percent load is not exceeded.
- (8) This Item describes the option for dischargers to form a group compliance association or join an existing group compliance association, to collectively meet nitrogen and phosphorus load [limits] Tar-Pamlico limits.
- (a) Any or all facilities within the basin may form a group compliance association or join an existing group compliance association, to meet nitrogen and phosphorus [limits] Tar-Pamlico limits collectively. Any new association formed shall apply for and shall be subject to an NPDES group permit that establishes the effective total nitrogen and phosphorus [limits] Tar-Pamlico limits for the association and for its members. More than one group compliance association may be established. No facility may be a co-permittee member of more than one association formed pursuant to this Rule at any given time.
- (b) An association may modify its membership at any time upon notification to the Division. The Division shall adjust the nitrogen and phosphorus allocations and [limits] Tar-Pamlico limits in the NPDES group permit to reflect the change in membership.
- (c) No later than 180 days prior to coverage under a new NPDES group permit, or expiration of an existing group permit, the association and its members shall submit an application for an NPDES permit for the discharge of total nitrogen and total phosphorus to the surface waters of the Tar-Pamlico River Basin. The NPDES group permit shall be issued to the association and its members as co-permittees.
- (d) An association's [limit] Tar-Pamlico limit of total nitrogen and total phosphorus shall be the sum of its members' individual allocations and nutrient offset credits plus any other allocation and offset credits obtained by the association or its members pursuant to this Rule.

- 1 (e) An association and its members may reapportion their individual allocations and nutrient
2 offset credits on an annual basis. The NPDES group permit shall be modified to reflect the
3 revised individual allocations and ~~limits,~~ Tar-Pamlico limits.
- 4 (f) If an association does not meet its ~~limits~~ Tar-Pamlico limits in any year, it shall obtain or
5 use existing nutrient offset credits in accordance with G.S. 143-214.26 and Rule .0703 of
6 this Section to offset its mass exceedance no later than July 1 of the following year.
- 7 (g) An association's members shall be deemed compliant with the permit ~~limits~~ Tar-Pamlico
8 limits for total nitrogen and total phosphorus contained in their individually issued NPDES
9 permits while they are members in an association. An association's members shall be
10 deemed compliant with their individual ~~limits~~ Tar-Pamlico limits in the NPDES group
11 permit in any year in which the association is in compliance with its ~~limits~~ Tar-Pamlico
12 limits. If the association exceeds its group ~~limit,~~ Tar-Pamlico limit, the association and
13 any members that exceed their individual ~~limits~~ Tar-Pamlico limits in the NPDES group
14 permit shall be deemed to be out of compliance with the group permit.
- 15 (h) Upon the termination of a group compliance association, members of the association shall
16 be subject to the ~~limits~~ Tar-Pamlico limits and other nutrient requirements of their
17 individual NPDES permits.
- 18 (9) If an NPDES-permitted discharger or association of dischargers accepts wastewater from another
19 NPDES-permitted treatment facility in the Tar-Pamlico River Basin and that acceptance results in
20 the elimination of the discharge from that other treatment facility, the eliminated facility's total
21 nitrogen and phosphorus allocations shall be transferred into the receiving facility's NPDES permit
22 and added to its allocations.

23
24 *History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); 143-215.8B; 143B-282;*
25 *Eff. April 1, 1997;*
26 *Recodified from 15A NCAC 02B .0229 Eff. April 1, 2020;*
27 *Readopted April 1, 2020.*
28 *Amended Eff. July 1, 2025.*

Request for Changes Pursuant to N.C. Gen. Stat. § 150B-21.10

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: “~~a~~Association”
 - Right: “~~association~~ Association”
6. Treat punctuation as part of a word. For example:
 - Wrong: “day;, and”
 - Right: “~~day,~~ day, and”
7. Formatting instructions and examples may be found at:
<https://www.oah.nc.gov/rule-format-examples>

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0733

DEADLINE FOR RECEIPT: June 13, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

1. *In p. 1 line 6, do your rules directly connect the NPDES to the federal rules and statutes related to it (which I think are related to the EPA)? Put another way, it appears to me that this rule is at least in part meeting some sort of federal requirement. What is it?*

The Tar-Pamlico Wastewater Rule (15A NCAC 02B .0733) is part of a comprehensive set of rules (15A NCAC 02B .0730–.0735) that together make up the Tar-Pamlico Nutrient Management Strategy. This nutrient management strategy was developed by the North Carolina Division of Water Resources (DWR) and adopted by the Environmental Management Commission (EMC) to satisfy requirements of Section 303 of the federal Clean Water Act (CWA). Section 303 of the CWA requires states to adopt water quality standards, identify impaired waters (waters that do not meet water quality standards), and develop Total Maximum Daily Loads (TMDLs) for pollutants that contribute to the impairment. The Pamlico Estuary was placed on EPA's 303(d) list of impaired waters for exceeding the state's chlorophyll-a water quality standard (found in 15A NCAC 02B .0211). This 303(d) listing triggers the development of a nutrient TMDL that sets the maximum daily load of nitrogen and phosphorus the estuary can receive without violating the water quality standard. These TMDLs form the basis for enforceable basin-wide nutrient reduction strategies implemented through state rules and permits, including National Pollutant Discharge Elimination System (NPDES) permits.

2. *Why is item 1, p.1 lines 8 through 10, necessary in this rule?*

This Rule is just one of several rules (15A NCAC 02B .0730–.0735) that make up the Tar-Pamlico Nutrient Strategy. Item (1) distinguishes the purpose of this rule from the purpose of the other rules comprising the Tar-Pamlico Nutrient Strategy.

3. *On p.1 lines 10-11, what is the standard for “restore water quality”? I.e. restore to what point?*

Seth Ascher
Commission Counsel

Date submitted to agency: June 6, 2025

Under the Tar-Pamlico Nutrient Strategy rules, to achieve the goal of restoring water quality, the state numeric standard for chlorophyll-a set forth in 15A NCAC 02B .0220 must be met.

4. *On p.1 line 11, what are the “designated uses”? Where would I find them?*

The Pamlico estuary is generally classified SC (Tidal Salt Water Class C), the rule for which, including SC waters’ designated uses, is 15A NCAC 02B .0220. Those uses are Aquatic Life; Fishing; and secondary recreation. Additionally, all waters of the Tar-Pamlico River Basin are supplementally classified as Nutrient Sensitive Waters (NSW) pursuant to Rule 15A NCAC 02B .0223, which directs the EMC to develop nutrient strategies to restore and protect the designated uses.

.

5. *On p.1 line 23, are TN and TP identified or defined somewhere? From context, I believe they mean Total Nitrogen and Total Phosphorous, but that needs to be indicated the first time it is used if there is not a definition somewhere.*

Sub-Item (3)(b) has been revised to spell out TN as “Total Nitrogen” and TP as “Total Phosphorus” as this is the first time they are used in this Rule. The “TN” and “TP” abbreviations are also noted in Sub-Item (3)(b) and are then used throughout the rest of the Rule.

6. *On p.1 line 33, it seems odd to call a 30-year-old permit “new”. Consider rephrasing throughout the rule.*

December 8, 1994, marks the effective date of the agreement between the EMC and the Tar-Pamlico Basin Association establishing the nitrogen and phosphorus discharge caps for Association members at that time. Facilities without an NPDES permit as of that date did not receive an allocation assignment. Any subsequently proposed discharge is considered "new" under the nutrient management strategy, and is the terminology used and understood by Association members and other dischargers in the Tar-Pamlico basin.

7. *On p.1 line 33, “that” is a pronoun without a clear referent. Replace with a noun, i.e. “a facility”.*

The rule text in Sub-Item (3)(g) has been updated to remove “that” and replaced it with “a facility” to improve the clarity of this definition.

8. *Starting in item (4)(a), I am confused by including a numeric standard in the rule while also having within the rules provisions for the standard to be revised outside of rulemaking. If the numeric standard needs to be set through rulemaking, I cannot see how you can also have rules allowing for its revision. Alternatively, if the numeric standard does not need to be set by rule, it makes sense to have rules about how the standard can be changed, but it introduces potential confusion into the code to include the current number because the requirement can be changed without updating the rule. Can you clarify this issue?*

Pursuant to N.C.G.S. § 150B-19(6), a rule may allow an agency to waive or modify a requirement set in rule so long as the rule establishes specific guidelines the agency must follow to determine whether to waive or modify the requirement. The standards in Paragraphs 4 and 5 may be modified based on the specific requirements set out in Paragraphs 7 through 9 in accordance with the APA. Any permits affected by a modification under Paragraphs 7 through 9 would go through public notice and review as part of the NPDES permitting process. The numeric standards in Paragraphs 4 and 5 would be updated as needed to reflect the modifications made pursuant to Paragraphs 7 through 9 and in accordance with N.C.G.S. § 150B-19(6).

9. *On p.2 line 20, how does the Commission “order” a revision to the discharge allocations? Is this a rulemaking? Something else?*

The Commission would revise discharge allocations via rulemaking. Due to the potential for confusion over the word “order,” Item 4(b) has been revised to state “The Commission shall revise the Nitrogen and Phosphorus TMDL...” in the revised Rule attached.

10. *On p .3, lines 7 through 9, if these are revised outside of rulemaking, the table will be inaccurate, which is a clarity problem.*

As noted in the response to Question 8, under N.C.G.S. § 150B-19(6), a rule may set forth requirements that can be modified as long as the rule establishes specific guidelines the agency must follow to determine whether to modify the requirement. The Table in Sub-Paragraph 5(a) sets forth standards; Paragraphs 7 through 9 provide the specific requirements the agency must follow to modify those standards. If a modification occurs, it will be done through the NPDES permitting process, which requires a public notice of the change. Additionally, if modifications are made in the permitting process, the rule would be updated as necessary to avoid confusion.

11. *As far as I can tell the table on p. 3 is memorializing the existing permit. Does this need to be in rule?*

Yes. One of the primary drivers for amending this Rule is that the allocations contained in the permit are currently only referenced in a signed Memorandum of Agreement (MOA) referred to as the “Phase IV” Agreement, which has historically been renewed every ten years. Placing in rule the numbers set out in the MOA aligns the nutrient management strategy for the Tar-Pamlico basin with the nutrient management strategies already set forth in rule for other North Carolina river basins. Placing specific allocation amounts in rule also provides the regulated public with a central location (the 02B .0700 rules) for finding and understanding the State’s nutrient management strategies.

12. *For context, I looked online for the association permit, and this is the only one I could find: <https://8c8.692.myftpupload.com/wp-content/uploads/2016/06/TPBA-Permit-2015.pdf>. It appears that this expired in 2020. Is there a currently in force permit?*

Yes, the current permit was issued on December 16, 2020 and runs through December 31, 2025. Division NPDES staff have already begun working on the permit renewal for the next five-year cycle. The current permit can be found at this url: <https://edocs.deq.nc.gov/WaterResources/DocView.aspx?dbid=0&id=3867629&cr=1>.

13. Additionally, the Facilities listed in the rule are inconsistent with what appears in the permit. For example, the rule lists “Greenville” as the facility, but the permit lists “Greenville Utilities Commission” as the co-permittee and GUC WWTP as the facility. Are you intentionally changing the facility referenced in the rule from what is referenced in the permit?

The Facility names listed in the Rule have been updated to be consistent with the Group NPDES Permit.

14. On p 3., line 12, you reference item (4), which in turn references items (7) through (9). Could you streamline by directly referencing 7 through 9?

The language on page 3, line 12 has been updated to refer to Sub-Item (4)(b).

15. On p. 3, line 14, when would revision be needed? What standards determine when and if they need to be revised?

The words “as needed” were removed. The standards to determine when allocations and TMDLs need to be revised are set forth in Sub-Item 4(b), which is now specifically referenced. In addition, Item (5)(a) was modified to clarify the differing nature of allocation changes made pursuant to Items (7) through (9) (changes made during permitting) and those made pursuant to Sub-Item 4(b) (changes made through rulemaking to conform the allocations to water quality standards set out in the 02B .0200 rules or other applicable State and federal requirements).

16. On p. 3, line 14, “may” is generally a problematic word in this context, since it is unclear what factors the Commission will consider. The easiest solution is to change “may” to “will” if that is within your meeting. Otherwise, clarify how the Commission will decide what factors to consider.

The Rule text has been revised to state: “The Commission shall consider factors, including:”

17. On p. 4, line 1, what does “technical feasibility and economic reasonableness” mean? How is this standard applied?

The phrases “technical feasibility” and “economic reasonableness” retain their ordinary meanings. “Technical feasibility” refers to whether the treatment technology or operational change to achieve a revised allocation is available and can be integrated into the facilities existing operations without encountering physical or logistical barriers. “Economic reasonableness” requires consideration of the costs associated with source reduction treatment methods for each facility affected by reapportioned allocations.

18. On p. 4, line 23-24, by requiring a new facility to have it use concurred to by the Association, can't the Association veto new facilities? What is the Association's authority to decide allocations, and/or what is your authority to delegate that authority to the Association?

The Tar-Pamlico Basin Association has a group NPDES permit and each member has an additional individual NPDES permit. The conditions in those permits, in conjunction with N.C.G.S. § 143-214.26 and 15A NCAC 02B .0703, govern the bounds within which Association members may manage their discharge allocations, including the reserve allocation, as well as purchase, sell, trade or lease allocation amounts.

When a new facility requests use of any allocation set aside for the Association, including the reserve allocation, it affects the ability of each Association member and the Association as a whole to reallocate nutrient limits amongst the group and to engage in nutrient credit trading both within and outside of the Association. Because the Association is entitled to engage in nutrient credit trading within the parameters set forth in N.C.G.S. § 143-214.26 and 15A NCAC 02B .0703, a change in the reserve allocation affects the Association's ability to utilize the statutory and regulatory nutrient trading program. Requiring that the Association concurs with a new facility using the Tar-Pamlico reserve allocation ensures the Association is aware of and approves a potential change in its ability to manage allocations and engage in nutrient trading. The Association was highly involved in the revisions to this rule and strongly recommended Association concurrence before new dischargers would be able to benefit from the Tar-Pamlico reserve allocation.

19. On p .4, line 31, what does "best available technology economically achievable" mean? How is that standard applied? Note this term appears throughout the rule and I am assuming it means the same thing each time, but correct me if I am wrong.

You are correct that the phrase means the same thing throughout the rule. "Best available technology economically available" comes from the Clean Water Act and the EPA. The phrase is defined on EPA's website (<https://www.epa.gov/eg/learn-about-effluent-guidelines>) and at 33 USC § 1314(b)(2)(B).

20. On p. 5, lines 6 and 7, what is a "tiered limit"? Note this term appears throughout the rule and I am assuming it means the same thing each time, but correct me if I am wrong.

The term "tiered limit" is defined in EPA's National Pollutant Discharge Elimination System (NPDES) Permit Writers' Manual and means the same thing each time it is used in this Rule. The term refers to a structured or phased set of effluent limits that vary based on specific conditions or thresholds, such as facility size, discharge flow, expansion, or timeframe. The EPA's Permit Writer's Manual can be found online here: <https://www.epa.gov/npdes/npdes-permit-writers-manual>.

21. *On p.5. lines 10 and 11, you require the facility to demonstrate that they have 10 years of allocation or offset credits. How is this different from whatever the duration of the permit is?*

The Tar-Pamlico Basin Association Group Permit and Individual NPDES permits of its members are renewed every 5 years. The Rule requires a facility to demonstrate they have 10 years of allocation or offset credit to show (a) that the facility is not in danger of exceeding water quality standards for two permit cycles, and (b) to provide industry consistency and certainty when submitting NPDES renewal applications.

22. *On p. 5, lines 17 through 19, what is the Director's authority to establish more stringent limits (as opposed to the Commission)?*

The Director's authority to establish more stringent limits comes from N.C.G.S. § 143-215.1. This statute allows either the EMC or the Department to set more stringent nutrient limits when required to meet water quality standards in specific, localized areas. The rule text has been updated to add a reference to this statute by adding the language "in accordance with G.S. 143-215.1."

23. *On p. 5, line 19, what are the "water quality standards" this refers to other than the numeric limits referenced in this rule and permits? Put another way, what is the Director measuring the necessity of more stringent requirements against?*

This refers to meeting nutrient-related water quality standards found in the Class SC Standards rule 15A NCAC 02B .0220. This is primarily chlorophyll-a, but may also include dissolved oxygen, pH, or turbidity depending on site conditions.

24. *Similar to the previously raised points, if the Director changes the limits outside of rulemaking, won't this rule become inaccurate?*

Please see answers to Questions 8 and 10 above.

25. *On p. 5, lines 23-36, items (7)(b) and (c) seem to treat members and non-members of the voluntary association under different standards. Why and by what authority?*

Facilities in the Tar-Pamlico Basin Association already have nutrient allocations based on the nutrient reduction goals of the Tar-Pamlico Nutrient Management Strategy, so when they expand, they must reduce their discharge concentrations as their corresponding flows increase to remain within their existing nutrient load allocations. Non-members lack allocations, so their NPDES permits set a fixed concentration limit that is applied to their projected flow in the event they apply for expansion, and any resulting nutrient load must be offset.

This authority is derived from subsections (b) and (c) of N.C.G.S. § 143-215.1 These sections provide the EMC and the Department of Environmental Quality with broad discretion to tailor permit conditions based on the specific circumstances of individual dischargers.

26. On p. 8, lines 17 through 19, can the association freely reapportion the allocations that are reflected on p. 3? If so, including the current amounts in the rule creates a potential clarity issue.

If a permit modification occurs to reapportion allocations within the Association, it will be done through the NPDES permitting process, which requires public notice. Additionally, if modifications are made in the permitting process, the rule would be updated as necessary to avoid confusion.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Burgos, Alexander N

Subject: FW: RFC for 15A NCAC 02B .0733
Attachments: 15A NCAC 02B .0733_Edits for RRC 6 18 2025.docx; RFC EMC June 2025 - 6 18 2025_FINAL.docx

From: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Sent: Wednesday, June 18, 2025 4:29 PM
To: Ascher, Seth M <seth.ascher@oah.nc.gov>; Huisman, John <john.huisman@deq.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>; Young, Elizabeth S <esyoung@ncdoj.gov>; Gannon, Rich <rich.gannon@deq.nc.gov>
Subject: RE: RFC for 15A NCAC 02B .0733

Hi Seth,

Attached are the responses to your technical change requests and the rewritten rule regarding 15A NCAC 02B .0733.

Thank you!

Jennifer Everett
DEQ Rulemaking Coordinator
N.C. Depart. Of Environmental Quality
Office of General Counsel
1601 Mail Service Center
Raleigh, NC 27699-1601
Tele: (919)-707-8595
<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

E-mail correspondence to and from this address may be subject to the North Carolina Public Records Law and may be disclosed to third parties.

1 15A NCAC 02B .0733 IS AMENDED AS PUBLISHED IN 39:13 NCR 784 WITH CHANGES AS FOLLOWS:

2
3 15A NCAC 02B .0733 TAR-PAMLICO NUTRIENT STRATEGY: WASTEWATER DISCHARGE
4 REQUIREMENTS ~~NEW AND EXPANDING WASTEWATER DISCHARGER~~
5 REQUIREMENTS

6 The following is the National Pollutant Discharge Elimination System (NPDES) wastewater discharge management
7 strategy for new and expanding wastewater dischargers in the Tar-Pamlico River basin:

- 8 (1) Purpose. The purpose of this Rule is to establish minimum nutrient control requirements for ~~new~~
9 ~~and expanding~~ point source discharges in the Tar-Pamlico River Basin in order to maintain or restore
10 water quality in the Pamlico Estuary and protect its designated uses.
- 11 (2) Applicability. This Rule applies to all discharges from wastewater treatment facilities in the Tar-
12 Pamlico River Basin that receive nitrogen- or phosphorus-bearing wastewater and are required to
13 obtain individual NPDES permits. ~~This Rule applies to Tar Pamlico Basin Association member~~
14 ~~facilities on or after June 1, 2025. This Rule applies to other facilities upon this Rule's effective date.~~
- 15 (3) Definitions. The terms used in this Rule, in regard to point source dischargers, treatment facilities,
16 wastewater flows or discharges, or like matters, shall be as defined in Rule .0701 of this Section and
17 as ~~follows:~~ follows; except that if the terms conflict, the terms in this Rule shall control:
- 18 (a) ["Active Allocation"] "Tar-Pamlico Active Allocation" means that portion of an allocation
19 that has been applied toward and is expressed as a nutrient [limit] Tar-Pamlico limit in an
20 individual NPDES [permit.] permit for a discharger in the Tar-Pamlico River Basin.
- 21 (b) "Association" means the Tar-Pamlico Basin Association, a not-for-profit corporation
22 consisting of NPDES-permitted dischargers in the Tar-Pamlico River Basin; established
23 voluntarily by its members to work cooperatively to meet the aggregate Total Nitrogen
24 [TN] (TN) and Total Phosphorus [TP] (TP) allocations originally established in the Tar-
25 Pamlico Nutrient TMDL and subsequently in the group permit.
- 26 (c) "Commission" means the North Carolina Environmental Management Commission.
- 27 ~~(a)(d)~~ "Existing" means that which obtained an NPDES permit on or before December 8, 1994.
- 28 ~~(b)(e)~~ "Expanding" means that which increases beyond its permitted flow as defined in Sub-Item
29 (4)(h) Item (4) of this Rule.
- 30 (f) ["Limit"] "Tar-Pamlico Limit" means the mass quantity of nitrogen or phosphorus that a
31 discharger or group of dischargers is authorized through an NPDES permit to release into
32 surface waters of the Tar-Pamlico River Basin.
- 33 ~~(e)(g)~~ "New" means ~~that~~ a facility which had not obtained an NPDES permit on or before
34 December 8, 1994.
- 35 ~~(4)~~ (h) "Permitted flow" means the maximum monthly average flow authorized in a facility's
36 NPDES permit as of December 8, 1994.

(i) ~~["Reserve Allocation"]~~ **"Tar-Pamlico Reserve Allocation"** means allocation that is held by a permittee or other person but that has not been applied toward and is not expressed as a nutrient ~~limit~~ **Tar-Pamlico limits** in an individual NPDES ~~permit~~ **permit of a discharger in the Tar-Pamlico River Basin:**

(4) This Item specifies the total combined end of pipe nitrogen and phosphorus discharge allocation for existing Association point source dischargers.

(a) Unless revised as provided for in Items (7) through (9) of this Rule, in accordance with the Nitrogen and Phosphorus TMDL for the Tar-Pamlico River Estuary, approved in 1995 by the US Environmental Protection Agency (EPA), the total ~~active~~ **Tar-Pamlico active allocations for** nitrogen and phosphorus discharge ~~allocations~~ for Association point source dischargers shall not exceed 891,271 in pounds of nitrogen and 161,070 pounds of phosphorus per calendar year. The nutrient loads discharged annually by these point sources shall not exceed these nitrogen and phosphorus discharge allocations plus any nutrient offset credits obtained in accordance with G.S. 143-214.26 and Rule .0703 of this Section. In the event the Association's allocations are revised as provided for in Items (7) through (9) of this Rule, the NPDES group permit shall be modified to reflect those changes to the ~~active~~ **Tar-Pamlico active allocations for** nitrogen and phosphorus discharge mass allocations and ~~limits~~ **Tar-Pamlico limits** set forth in this Rule.

(b) The Commission shall ~~order future revisions in~~ **revise** the Nitrogen and Phosphorus TMDL and nitrogen and phosphorus discharge allocations whenever necessary to ensure that water quality in the estuary meets all applicable standards in 15A NCAC 02B .0200 or to conform with applicable State or federal requirements.

(5) This Item specifies the individual nitrogen and phosphorus discharge allocations for existing Association point source dischargers in accordance with the 1995 TMDL.

(a) Unless revised **through permit modifications** as provided for in Items (7) through (9) of this Rule, the following individual discharge mass allocations for total nitrogen and total phosphorus shall apply in conformance with the values in Item (4) of this Rule:

Facility Name	NPDES No.	Mass Allocations (pounds/year)	
		Total Nitrogen	Total Phosphorus
Belhaven Wastewater Treatment Plant (WWTP)	NC0026492	14,261	2,577
Bunn WWTP	NC0042269	4,278	773
Enfield WWTP	NC0025402	14,261	2,577
Franklin County WWTP	NC0069311	42,784	7,732
[Greenville] Greenville Utilities Commission WWTP	NC0023931	249,576	45,103
Louisburg WWTP	NC0020231	19,538	3,531
Oxford WWTP	NC0025054	49,915	9,021

Pinetops WWTP	NC0020435	4,278	773
Robersonville WWTP	NC0026042	25,671	4,639
[Rocky Mount] Tar River Regional WWTP	NC0030317	299,491	54,124
Scotland Neck WWTP	NC0023337	9,626	1,740
Spring Hope WWTP	NC0020061	5,705	1,031
Tarboro WWTP	NC0020605	71,307	12,887
Warrenton WWTP	NC0020834	28,523	5,155
Washington WWTP	NC0020648	52,054	9,407
Association Total WWTP			
[Active Allocation] Tar-Pamlico Active Allocation		891,271	161,070
[Allocation in Reserve] Tar-Pamlico Reserve Allocation		59,798	3,898

(b) In the event that the nitrogen and phosphorus TMDL and their discharge allocations for point sources are revised, as provided in ~~[Item (4)]~~ **Sub-Item (4)(b)** of this Rule, the Commission shall apportion the revised load among the existing facilities and shall revise discharge **allocations** ~~[allocations as needed]~~. The Commission ~~[may]~~ **shall** consider ~~[such factors as]~~ **factors, including:**

- (i) fate and transport of nitrogen and phosphorus in the river basin;
- (ii) technical feasibility and economic reasonableness of source reduction and treatment methods;
- (iii) economies of scale;
- (iv) nitrogen and phosphorus control measures already implemented;
- (v) probable need for growth and expansion; and
- (vi) incentives for nutrient management planning, utilities management, resource protection, and cooperative efforts among dischargers.

~~(5)(6)~~ This Item specifies nutrient controls for new facilities.

(a) ~~Proposed new wastewater dischargers~~ **New facilities proposing to discharge wastewater** shall evaluate all practical alternatives to surface water discharge pursuant to 15A NCAC 02H .0105(c)(2) prior to submitting an application to discharge.

(b) New facilities shall document in their permit application that they have acquired some combination of the following allocations and offsets sufficient to meet the annual ~~[limits]~~ **Tar-Pamlico limits** required elsewhere in this Item for the proposed discharge:

- (i) nitrogen and phosphorus allocations from existing dischargers;
- (ii) ~~[reserve allocation]~~ **Tar-Pamlico reserve allocation** pursuant to Sub-Item (c) of this Item; and
- (iii) nitrogen and phosphorus offset credits pursuant to Rule .0703 of this Section.

- Allocation and offset credits shall be sufficient for no less than 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(c).
- (c) New facilities proposing to use any portion of the reserve allocation Tar-Pamlico reserve allocation described in Sub-Item (5)(a) of this Rule shall submit a written request to the Division for approval of the proposed use. The request shall include concurrence for its use by the Association.
- ~~(b)(d)~~ New facilities shall meet ~~The~~ technology-based nitrogen and phosphorus discharge limits Tar-Pamlico limits that shall not exceed the following: ~~for a new facility shall not exceed:~~
- (i) For facilities treating municipal or domestic wastewater, the mass load equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP at the monthly average flow limit in the facility's NPDES permit; and
 - (ii) For facilities treating industrial wastewater, the mass load equivalent to the best available technology economically achievable, calculated at the monthly average flow limit in the facility's NPDES permit.
- ~~(e)~~ ~~Proposed new dischargers submitting an application shall acquire nutrient allocation from existing dischargers or nutrient offset credits pursuant to Rule .0703 of this Section for the mass load dictated by this Item. The allocation and offset credits shall be sufficient for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(e).~~
- ~~(d)~~ ~~The Director shall not issue a permit authorizing discharge from a new facility unless the applicant has satisfied the requirements of Sub Items (a), (e), and (e) of this Item. If a facility's permit contains tiered flow limits for expansion, the Director shall not authorize an increased discharge unless the applicant has satisfied the requirements of Sub Items (a), (e), and (e) of this Item.~~
- (e) Subsequent applications for permit renewal ~~or, where an existing permit will contain tiered~~ limits Tar-Pamlico limits requests to discharge at an increased flow, shall demonstrate that the facility has sufficient nitrogen and phosphorus allocation or offset credits to meet its effluent nutrient limitations Tar-Pamlico limitations for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at ~~the proposed~~ an increased design flow rate in accordance with 15A NCAC 02H .0112(c).
- ~~(f)~~ ~~The Director shall not issue a permit authorizing discharge from a new facility unless the applicant has satisfied the requirements of Sub-Items (a) through (d) of this Item. If a facility's permit contains tiered flow~~ limits Tar-Pamlico limits ~~for expansion, the Director shall not authorize an increased discharge unless the applicant has satisfied the same requirements of this Item.~~

- (f)(g) The Director shall establish more stringent [limits] Tar-Pamlico limits for nitrogen or phosphorus upon finding that such [limits] Tar-Pamlico limits are necessary to protect water quality standards in localized [areas] areas, in accordance with G.S. 143-215.1
- (6)(7) This Item specifies nutrient controls for expanding facilities.
- (a) Expanding facilities shall evaluate all practical alternatives to surface water discharge pursuant to 15A NCAC 02H .0105(c)(2) prior to submitting an application to discharge.
- (b) The nitrogen and phosphorus discharge [limits] Tar-Pamlico limits for expanding non-Association facilities shall be assigned in accordance with the following:
- (i) Expanding non-Association municipal or domestic wastewater facilities requesting permitted flows greater or equal to 0.1 MGD shall be assigned the mass equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP at the monthly average flow limit in the facility's NPDES permit; and
- (ii) Expanding non-Association facilities treating industrial wastewater shall be assigned the mass load equivalent to the best available technology economically achievable, calculated at the monthly average flow limit in the facility's NPDES permit.
- (c) An expanding facility that is a member of the Association, as defined in Sub-Item (3)(b) of this Rule, shall not exceed the nitrogen and phosphorus loads equivalent to its [active allocations] Tar-Pamlico active allocations unless they receive Division approval for an increase in their discharge as described in this Item.
- (d) Facilities submitting application for increased discharge or, where an existing permit will contain tiered [limits] Tar-Pamlico limits for authorization to discharge at an increased flow, may acquire nitrogen and phosphorus allocations from existing dischargers or nitrogen and phosphorus offset credits pursuant to Rule .0703 of this Section, or may acquire [reserve allocation] Tar-Pamlico reserve allocation in compliance with Sub-Item (e) of this Item for the proposed discharge. The acquired allocations and offset credits, combined with any preexisting allocations, shall be sufficient to meet its effluent nutrient [limits] Tar-Pamlico limits as established in this item for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at an increased design flow rate in accordance with 15A NCAC 02H .0112(c).
- (e) A facility that submits an application to increase its discharge may request approval from the Division to use a portion of the [reserve allocation] Tar-Pamlico reserve allocation described in Sub-Item (5)(a) of this Rule. Approval shall be based on the following criteria:
- (i) The expanding facility demonstrates that upon expansion their nitrogen and phosphorus discharge would not exceed the mass load equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP, calculated at the monthly average flow limit in the facility's NPDES permit;

- (ii) The expanding facility requesting use of [reserve allocation] Tar-Pamlico reserve allocation has received written approval from the Association.
- (iii) Should the facility cease to discharge, the portion of the [reserve allocation] Tar-Pamlico reserve allocation that was activated shall revert back to [reserve allocation] Tar-Pamlico reserve allocation; and
- (f) The Director shall not issue an NPDES permit authorizing increased discharge from an existing facility unless the applicant has satisfied the requirements of Sub-Items (a) through (e) of this Item. If a facility's permit contains tiered flow limits for expansion, the Director shall not authorize discharge at an increased flow unless the applicant has satisfied the same requirements of this Item.
- ~~(f)(g)~~ The Director shall modify an expanding facility's permit to establish more stringent [limits] Tar-Pamlico limits for nitrogen or phosphorus upon finding that such [limits] Tar-Pamlico limits are necessary to protect water quality standards in localized areas.
- ~~(b)~~ The nitrogen and phosphorus discharge limits for an expanding facility shall not exceed the greater of loads equivalent to its active allocation and offset credit, or the following technology-based mass limits:
- ~~(i)~~ For facilities treating municipal or domestic wastewater, the mass equivalent to a concentration of 3.5 mg/L TN and 0.5 mg/L TP at the monthly average flow limit in the NPDES permit; and
- ~~(ii)~~ For facilities treating industrial wastewater, the mass load equivalent to the best available technology economically achievable, calculated at the monthly average flow limit in the facility's NPDES permit.
- ~~(c)~~ Facilities submitting application for increased discharge or, where an existing permit contains tiered flow limits, for authorization to discharge at an increased flow, shall acquire or demonstrate contractual agreement to acquire, prior to authorization to discharge at the increased flow, nutrient allocation from existing dischargers or nutrient offset credits pursuant to Rule .0703 of this Section for the proposed discharge above 0.5 million gallons per day (MGD). The allocation and offset credits shall be sufficient to meet its effluent nutrient limitations for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(e).
- ~~(d)~~ The Director shall not issue a permit authorizing increased discharge from an existing facility unless the applicant has satisfied the requirements of Sub-Items (a), (e), and (e) of this Item. If a facility's permit contains tiered flow limits for expansion, the Director shall not authorize discharge at an increased flow unless the applicant has satisfied the requirements of Sub-Items (a), (e), and (e) of this Item.

- (e) Subsequent applications for permit renewal shall demonstrate that the facility has sufficient nitrogen allocation or offset credits to meet its effluent nutrient limitations for any partial calendar year in which the permit becomes effective plus 10 subsequent years of discharge at the proposed design flow rate in accordance with 15A NCAC 02H .0112(e).
- (g) Existing wastewater dischargers expanding to greater than 0.5 MGD design capacity may petition the Director for an exemption from Sub Items (a) through (e) and (e) (a), (b), (d), and (e) of this Item upon meeting and maintaining all of the following conditions:
- (i) The facility has reduced its annual average TN and TP loading by 30 percent from its annual average 1991 TN and TP loading. Industrial facilities may alternatively demonstrate that nitrogen and phosphorus are not part of the waste stream above background levels.
- (ii) The expansion does not result in annual average TN or TP loading greater than 70 percent of the 1991 annual average TN or TP load. Permit limits shall be established to ensure that the 70 percent load is not exceeded.
- (8) This Item describes the option for dischargers to form a group compliance association or join an existing group compliance association, to collectively meet nitrogen and phosphorus load [limits] Tar-Pamlico limits.
- (a) Any or all facilities within the basin may form a group compliance association or join an existing group compliance association, to meet nitrogen and phosphorus [limits] Tar-Pamlico limits collectively. Any new association formed shall apply for and shall be subject to an NPDES group permit that establishes the effective total nitrogen and phosphorus [limits] Tar-Pamlico limits for the association and for its members. More than one group compliance association may be established. No facility may be a co-permittee member of more than one association formed pursuant to this Rule at any given time.
- (b) An association may modify its membership at any time upon notification to the Division. The Division shall adjust the nitrogen and phosphorus allocations and [limits] Tar-Pamlico limits in the NPDES group permit to reflect the change in membership.
- (c) No later than 180 days prior to coverage under a new NPDES group permit, or expiration of an existing group permit, the association and its members shall submit an application for an NPDES permit for the discharge of total nitrogen and total phosphorus to the surface waters of the Tar-Pamlico River Basin. The NPDES group permit shall be issued to the association and its members as co-permittees.
- (d) An association's [limit] Tar-Pamlico limit of total nitrogen and total phosphorus shall be the sum of its members' individual allocations and nutrient offset credits plus any other allocation and offset credits obtained by the association or its members pursuant to this Rule.

- 1 (e) An association and its members may reapportion their individual allocations and nutrient
2 offset credits on an annual basis. The NPDES group permit shall be modified to reflect the
3 revised individual allocations and ~~limits,~~ Tar-Pamlico limits.
- 4 (f) If an association does not meet its ~~limits~~ Tar-Pamlico limits in any year, it shall obtain or
5 use existing nutrient offset credits in accordance with G.S. 143-214.26 and Rule .0703 of
6 this Section to offset its mass exceedance no later than July 1 of the following year.
- 7 (g) An association's members shall be deemed compliant with the permit ~~limits~~ Tar-Pamlico
8 limits for total nitrogen and total phosphorus contained in their individually issued NPDES
9 permits while they are members in an association. An association's members shall be
10 deemed compliant with their individual ~~limits~~ Tar-Pamlico limits in the NPDES group
11 permit in any year in which the association is in compliance with its ~~limits~~ Tar-Pamlico
12 limits. If the association exceeds its group ~~limit,~~ Tar-Pamlico limit, the association and
13 any members that exceed their individual ~~limits~~ Tar-Pamlico limits in the NPDES group
14 permit shall be deemed to be out of compliance with the group permit.
- 15 (h) Upon the termination of a group compliance association, members of the association shall
16 be subject to the ~~limits~~ Tar-Pamlico limits and other nutrient requirements of their
17 individual NPDES permits.
- 18 (9) If an NPDES-permitted discharger or association of dischargers accepts wastewater from another
19 NPDES-permitted treatment facility in the Tar-Pamlico River Basin and that acceptance results in
20 the elimination of the discharge from that other treatment facility, the eliminated facility's total
21 nitrogen and phosphorus allocations shall be transferred into the receiving facility's NPDES permit
22 and added to its allocations.

23

24 *History Note: Authority G.S. 143-214.1; 143-215.1; 143-215.3(a)(1); 143-215.8B; 143B-282;*
25 *Eff. April 1, 1997;*
26 *Recodified from 15A NCAC 02B .0229 Eff. April 1, 2020;*
27 *Readopted April 1, 2020.*
28 *Amended Eff. July 1, 2025.*

Request for Changes Pursuant to N.C. Gen. Stat. § 150B-21.10

Staff reviewed these Rules to ensure that each Rule is within the agency's statutory authority, reasonably necessary, clear and unambiguous, and adopted in accordance with Part 2 of the North Carolina Administrative Procedure Act. Following review, staff has issued this document that may request changes pursuant to G.S. 150B-21.10 from your agency or ask clarifying questions.

If the request includes questions, please contact the reviewing attorney to discuss.

In order to properly submit rewritten rules, please refer to the following Rules in the NC Administrative Code:

- Rule 26 NCAC 02C .0108 – The Rule addresses general formatting.
- Rule 26 NCAC 02C .0404 – The Rule addresses changing the introductory statement.
- Rule 26 NCAC 02C .0405 – The Rule addresses properly formatting changes made after publication in the NC Register.

Note the following general instructions:

1. You must submit the revised rule via email to oah.rules@oah.nc.gov. The electronic copy must be saved as the official rule name (XX NCAC XXXX).
2. For rules longer than one page, insert a page number.
3. Use line numbers; if the rule spans more than one page, have the line numbers reset at one for each page.
4. Do not use track changes. Make all changes using manual strikethroughs, underlines and highlighting.
5. You cannot change just one part of a word. For example:
 - Wrong: “~~a~~Association”
 - Right: “~~association~~ Association”
6. Treat punctuation as part of a word. For example:
 - Wrong: “day;, and”
 - Right: “~~day,~~ day, and”
7. Formatting instructions and examples may be found at:
<https://www.oah.nc.gov/rule-format-examples>

If you have any questions regarding proper formatting of edits after reviewing the rules and examples, please contact the reviewing attorney.

REQUEST FOR CHANGES PURSUANT TO G.S. 150B-21.10

AGENCY: Environmental Management Commission

RULE CITATION: 15A NCAC 02B .0733

DEADLINE FOR RECEIPT: June 13, 2025

PLEASE NOTE: *This request may extend to several pages. Please be sure you have reached the end of the document.*

The Rules Review Commission staff has completed its review of this Rule prior to the Commission's next meeting. The Commission has not yet reviewed this Rule and therefore there has not been a determination as to whether the Rule will be approved. You may email the reviewing attorney to inquire concerning the staff recommendation.

In reviewing this Rule, the staff recommends the following changes be made:

1. *In p. 1 line 6, do your rules directly connect the NPDES to the federal rules and statutes related to it (which I think are related to the EPA)? Put another way, it appears to me that this rule is at least in part meeting some sort of federal requirement. What is it?*

The Tar-Pamlico Wastewater Rule (15A NCAC 02B .0733) is part of a comprehensive set of rules (15A NCAC 02B .0730–.0735) that together make up the Tar-Pamlico Nutrient Management Strategy. This nutrient management strategy was developed by the North Carolina Division of Water Resources (DWR) and adopted by the Environmental Management Commission (EMC) to satisfy requirements of Section 303 of the federal Clean Water Act (CWA). Section 303 of the CWA requires states to adopt water quality standards, identify impaired waters (waters that do not meet water quality standards), and develop Total Maximum Daily Loads (TMDLs) for pollutants that contribute to the impairment. The Pamlico Estuary was placed on EPA's 303(d) list of impaired waters for exceeding the state's chlorophyll-a water quality standard (found in 15A NCAC 02B .0211). This 303(d) listing triggers the development of a nutrient TMDL that sets the maximum daily load of nitrogen and phosphorus the estuary can receive without violating the water quality standard. These TMDLs form the basis for enforceable basin-wide nutrient reduction strategies implemented through state rules and permits, including National Pollutant Discharge Elimination System (NPDES) permits.

2. *Why is item 1, p.1 lines 8 through 10, necessary in this rule?*

This Rule is just one of several rules (15A NCAC 02B .0730–.0735) that make up the Tar-Pamlico Nutrient Strategy. Item (1) distinguishes the purpose of this rule from the purpose of the other rules comprising the Tar-Pamlico Nutrient Strategy.

3. *On p.1 lines 10-11, what is the standard for “restore water quality”? I.e. restore to what point?*

Seth Ascher
Commission Counsel

Date submitted to agency: June 6, 2025

Under the Tar-Pamlico Nutrient Strategy rules, to achieve the goal of restoring water quality, the state numeric standard for chlorophyll-a set forth in 15A NCAC 02B .0220 must be met.

4. *On p.1 line 11, what are the “designated uses”? Where would I find them?*

The Pamlico estuary is generally classified SC (Tidal Salt Water Class C), the rule for which, including SC waters’ designated uses, is 15A NCAC 02B .0220. Those uses are Aquatic Life; Fishing; and secondary recreation. Additionally, all waters of the Tar-Pamlico River Basin are supplementally classified as Nutrient Sensitive Waters (NSW) pursuant to Rule 15A NCAC 02B .0223, which directs the EMC to develop nutrient strategies to restore and protect the designated uses.

5. *On p.1 line 23, are TN and TP identified or defined somewhere? From context, I believe they mean Total Nitrogen and Total Phosphorous, but that needs to be indicated the first time it is used if there is not a definition somewhere.*

Sub-Item (3)(b) has been revised to spell out TN as “Total Nitrogen” and TP as “Total Phosphorus” as this is the first time they are used in this Rule. The “TN” and “TP” abbreviations are also noted in Sub-Item (3)(b) and are then used throughout the rest of the Rule.

6. *On p.1 line 33, it seems odd to call a 30-year-old permit “new”. Consider rephrasing throughout the rule.*

December 8, 1994, marks the effective date of the agreement between the EMC and the Tar-Pamlico Basin Association establishing the nitrogen and phosphorus discharge caps for Association members at that time. Facilities without an NPDES permit as of that date did not receive an allocation assignment. Any subsequently proposed discharge is considered "new" under the nutrient management strategy, and is the terminology used and understood by Association members and other dischargers in the Tar-Pamlico basin.

7. *On p.1 line 33, “that” is a pronoun without a clear referent. Replace with a noun, i.e. “a facility”.*

The rule text in Sub-Item (3)(g) has been updated to remove “that” and replaced it with “a facility” to improve the clarity of this definition.

8. *Starting in item (4)(a), I am confused by including a numeric standard in the rule while also having within the rules provisions for the standard to be revised outside of rulemaking. If the numeric standard needs to be set through rulemaking, I cannot see how you can also have rules allowing for its revision. Alternatively, if the numeric standard does not need to be set by rule, it makes sense to have rules about how the standard can be changed, but it introduces potential confusion into the code to include the current number because the requirement can be changed without updating the rule. Can you clarify this issue?*

Pursuant to N.C.G.S. § 150B-19(6), a rule may allow an agency to waive or modify a requirement set in rule so long as the rule establishes specific guidelines the agency must follow to determine whether to waive or modify the requirement. The standards in Paragraphs 4 and 5 may be modified based on the specific requirements set out in Paragraphs 7 through 9 in accordance with the APA. Any permits affected by a modification under Paragraphs 7 through 9 would go through public notice and review as part of the NPDES permitting process. The numeric standards in Paragraphs 4 and 5 would be updated as needed to reflect the modifications made pursuant to Paragraphs 7 through 9 and in accordance with N.C.G.S. § 150B-19(6).

9. *On p.2 line 20, how does the Commission “order” a revision to the discharge allocations? Is this a rulemaking? Something else?*

The Commission would revise discharge allocations via rulemaking. Due to the potential for confusion over the word “order,” Item 4(b) has been revised to state “The Commission shall revise the Nitrogen and Phosphorus TMDL...” in the revised Rule attached.

10. *On p .3, lines 7 through 9, if these are revised outside of rulemaking, the table will be inaccurate, which is a clarity problem.*

As noted in the response to Question 8, under N.C.G.S. § 150B-19(6), a rule may set forth requirements that can be modified as long as the rule establishes specific guidelines the agency must follow to determine whether to modify the requirement. The Table in Sub-Paragraph 5(a) sets forth standards; Paragraphs 7 through 9 provide the specific requirements the agency must follow to modify those standards. If a modification occurs, it will be done through the NPDES permitting process, which requires a public notice of the change. Additionally, if modifications are made in the permitting process, the rule would be updated as necessary to avoid confusion.

11. *As far as I can tell the table on p. 3 is memorializing the existing permit. Does this need to be in rule?*

Yes. One of the primary drivers for amending this Rule is that the allocations contained in the permit are currently only referenced in a signed Memorandum of Agreement (MOA) referred to as the “Phase IV” Agreement, which has historically been renewed every ten years. Placing in rule the numbers set out in the MOA aligns the nutrient management strategy for the Tar-Pamlico basin with the nutrient management strategies already set forth in rule for other North Carolina river basins. Placing specific allocation amounts in rule also provides the regulated public with a central location (the 02B .0700 rules) for finding and understanding the State’s nutrient management strategies.

12. *For context, I looked online for the association permit, and this is the only one I could find: <https://8c8.692.myftpupload.com/wp-content/uploads/2016/06/TPBA-Permit-2015.pdf>. It appears that this expired in 2020. Is there a currently in force permit?*

Yes, the current permit was issued on December 16, 2020 and runs through December 31, 2025. Division NPDES staff have already begun working on the permit renewal for the next five-year cycle. The current permit can be found at this url: <https://edocs.deq.nc.gov/WaterResources/DocView.aspx?dbid=0&id=3867629&cr=1>.

13. Additionally, the Facilities listed in the rule are inconsistent with what appears in the permit. For example, the rule lists “Greenville” as the facility, but the permit lists “Greenville Utilities Commission” as the co-permittee and GUC WWTP as the facility. Are you intentionally changing the facility referenced in the rule from what is referenced in the permit?

The Facility names listed in the Rule have been updated to be consistent with the Group NPDES Permit.

14. On p 3., line 12, you reference item (4), which in turn references items (7) through (9). Could you streamline by directly referencing 7 through 9?

The language on page 3, line 12 has been updated to refer to Sub-Item (4)(b).

15. On p. 3, line 14, when would revision be needed? What standards determine when and if they need to be revised?

The words “as needed” were removed. The standards to determine when allocations and TMDLs need to be revised are set forth in Sub-Item 4(b), which is now specifically referenced. In addition, Item (5)(a) was modified to clarify the differing nature of allocation changes made pursuant to Items (7) through (9) (changes made during permitting) and those made pursuant to Sub-Item 4(b) (changes made through rulemaking to conform the allocations to water quality standards set out in the 02B .0200 rules or other applicable State and federal requirements).

16. On p. 3, line 14, “may” is generally a problematic word in this context, since it is unclear what factors the Commission will consider. The easiest solution is to change “may” to “will” if that is within your meeting. Otherwise, clarify how the Commission will decide what factors to consider.

The Rule text has been revised to state: “The Commission shall consider factors, including:”

17. On p. 4, line 1, what does “technical feasibility and economic reasonableness” mean? How is this standard applied?

The phrases “technical feasibility” and “economic reasonableness” retain their ordinary meanings. “Technical feasibility” refers to whether the treatment technology or operational change to achieve a revised allocation is available and can be integrated into the facilities existing operations without encountering physical or logistical barriers. “Economic reasonableness” requires consideration of the costs associated with source reduction treatment methods for each facility affected by reapportioned allocations.

18. On p. 4, line 23-24, by requiring a new facility to have it use concurred to by the Association, can't the Association veto new facilities? What is the Association's authority to decide allocations, and/or what is your authority to delegate that authority to the Association?

The Tar-Pamlico Basin Association has a group NPDES permit and each member has an additional individual NPDES permit. The conditions in those permits, in conjunction with N.C.G.S. § 143-214.26 and 15A NCAC 02B .0703, govern the bounds within which Association members may manage their discharge allocations, including the reserve allocation, as well as purchase, sell, trade or lease allocation amounts.

When a new facility requests use of any allocation set aside for the Association, including the reserve allocation, it affects the ability of each Association member and the Association as a whole to reallocate nutrient limits amongst the group and to engage in nutrient credit trading both within and outside of the Association. Because the Association is entitled to engage in nutrient credit trading within the parameters set forth in N.C.G.S. § 143-214.26 and 15A NCAC 02B .0703, a change in the reserve allocation affects the Association's ability to utilize the statutory and regulatory nutrient trading program. Requiring that the Association concurs with a new facility using the Tar-Pamlico reserve allocation ensures the Association is aware of and approves a potential change in its ability to manage allocations and engage in nutrient trading. The Association was highly involved in the revisions to this rule and strongly recommended Association concurrence before new dischargers would be able to benefit from the Tar-Pamlico reserve allocation.

19. On p .4, line 31, what does "best available technology economically achievable" mean? How is that standard applied? Note this term appears throughout the rule and I am assuming it means the same thing each time, but correct me if I am wrong.

You are correct that the phrase means the same thing throughout the rule. "Best available technology economically available" comes from the Clean Water Act and the EPA. The phrase is defined on EPA's website (<https://www.epa.gov/eg/learn-about-effluent-guidelines>) and at 33 USC § 1314(b)(2)(B).

20. On p. 5, lines 6 and 7, what is a "tiered limit"? Note this term appears throughout the rule and I am assuming it means the same thing each time, but correct me if I am wrong.

The term "tiered limit" is defined in EPA's National Pollutant Discharge Elimination System (NPDES) Permit Writers' Manual and means the same thing each time it is used in this Rule. The term refers to a structured or phased set of effluent limits that vary based on specific conditions or thresholds, such as facility size, discharge flow, expansion, or timeframe. The EPA's Permit Writer's Manual can be found online here: <https://www.epa.gov/npdes/npdes-permit-writers-manual>.

21. *On p.5. lines 10 and 11, you require the facility to demonstrate that they have 10 years of allocation or offset credits. How is this different from whatever the duration of the permit is?*

The Tar-Pamlico Basin Association Group Permit and Individual NPDES permits of its members are renewed every 5 years. The Rule requires a facility to demonstrate they have 10 years of allocation or offset credit to show (a) that the facility is not in danger of exceeding water quality standards for two permit cycles, and (b) to provide industry consistency and certainty when submitting NPDES renewal applications.

22. *On p. 5, lines 17 through 19, what is the Director's authority to establish more stringent limits (as opposed to the Commission)?*

The Director's authority to establish more stringent limits comes from N.C.G.S. § 143-215.1. This statute allows either the EMC or the Department to set more stringent nutrient limits when required to meet water quality standards in specific, localized areas. The rule text has been updated to add a reference to this statute by adding the language "in accordance with G.S. 143-215.1."

23. *On p. 5, line 19, what are the "water quality standards" this refers to other than the numeric limits referenced in this rule and permits? Put another way, what is the Director measuring the necessity of more stringent requirements against?*

This refers to meeting nutrient-related water quality standards found in the Class SC Standards rule 15A NCAC 02B .0220. This is primarily chlorophyll-a, but may also include dissolved oxygen, pH, or turbidity depending on site conditions.

24. *Similar to the previously raised points, if the Director changes the limits outside of rulemaking, won't this rule become inaccurate?*

Please see answers to Questions 8 and 10 above.

25. *On p. 5, lines 23-36, items (7)(b) and (c) seem to treat members and non-members of the voluntary association under different standards. Why and by what authority?*

Facilities in the Tar-Pamlico Basin Association already have nutrient allocations based on the nutrient reduction goals of the Tar-Pamlico Nutrient Management Strategy, so when they expand, they must reduce their discharge concentrations as their corresponding flows increase to remain within their existing nutrient load allocations. Non-members lack allocations, so their NPDES permits set a fixed concentration limit that is applied to their projected flow in the event they apply for expansion, and any resulting nutrient load must be offset.

This authority is derived from subsections (b) and (c) of N.C.G.S. § 143-215.1 These sections provide the EMC and the Department of Environmental Quality with broad discretion to tailor permit conditions based on the specific circumstances of individual dischargers.

26. On p. 8, lines 17 through 19, can the association freely reapportion the allocations that are reflected on p. 3? If so, including the current amounts in the rule creates a potential clarity issue.

If a permit modification occurs to reapportion allocations within the Association, it will be done through the NPDES permitting process, which requires public notice. Additionally, if modifications are made in the permitting process, the rule would be updated as necessary to avoid confusion.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Burgos, Alexander N

From: Everett, Jennifer
Sent: Thursday, May 29, 2025 7:31 AM
To: Wiggs, Travis C
Cc: Burgos, Alexander N
Subject: RE: June 2025 RRC Meeting

Thank you, Received!
Will be in touch.

Jennifer Everett
DEQ Rulemaking Coordinator
N.C. Depart. Of Environmental Quality
Office of General Counsel
1601 Mail Service Center
Raleigh, NC 27699-1601
Tele: (919)-707-8595
<https://deq.nc.gov/permits-rules/rules-regulations/deq-proposed-rules>

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From: Wiggs, Travis C <travis.wiggs@oah.nc.gov>
Sent: Wednesday, May 28, 2025 6:35 PM
To: Everett, Jennifer <jennifer.everett@deq.nc.gov>
Cc: Burgos, Alexander N <alexander.burgos@oah.nc.gov>
Subject: June 2025 RRC Meeting

Good evening,

I'm the attorney who reviewed the rules submitted by the Department of Environmental Quality for the June 2025 RRC meeting. The RRC will formally review these rules at its meeting on Thursday, June 26, 2025, at 10:00 a.m. The meeting will be a hybrid of in-person and WebEx attendance, and an invite should be sent to you as we get close to the meeting. If there are any other representatives from your agency who want to attend virtually, please let me know prior to the meeting, and we will get invites out to them as well.

Attached is the Request for Changes Pursuant to G.S. 150B-21.10. Please submit the revised rules to me via email, no later than 5 p.m. on June 12, 2025. Let me know if you have any questions.

Thanks,

Travis C. Wiggs
Rules Review Commission Counsel
Office of Administrative Hearings
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Email: travis.wiggs@oah.nc.gov

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