



Fact Sheet - NPDES Permit

Neuse River Compliance Association NPDES No. NCC000001

FINAL ACTION

The Neuse River Compliance Association and its member dischargers have applied for a new NPDES permit to govern the group's discharge of Total Nitrogen to the Neuse River and its tributaries. The group made application on June 28, 2002. It modified its application on October 1, and again on December 18, 2002 to reflect changes in membership.

The Division found the Association's application to be acceptable and made a tentative determination to issue the permit.

The Division published a notice of this determination in the principle newspaper for each county in the river basin on or about October 23, 2002, and accepted comments on the draft permit for 30 days following publication.

The Division considered all significant comments, made certain revisions in the permit in response to those comments, and has made its final determination to issue the permit with revisions.

INTRODUCTION

The Neuse River Basin is classified as Nutrient Sensitive Waters (NSW), due to long-term nutrient impacts on the river's estuary from point, nonpoint, and natural sources of pollution. In December 1997, the Environmental Management Commission adopted the Neuse River Basin Nutrient Sensitive Waters (NSW) Management Strategy, a rules package designed to address these nutrient impacts and restore water quality in the basin. The Strategy required that Total Nitrogen (TN) loads to the estuary (1995 baseline) be reduced by 30 percent by the year 2003.

The basin has also been listed on the state's 303(d) list of impaired waters because of the nutrient impacts. The Division developed Total Nitrogen TMDLs for the basin, based upon the NSW Management Strategy, and the USEPA approved the TMDLs in 1999 (Phase I) and 2002 (Phase II). The 2000 303(d) list again includes the basin, now noting that the TMDLs have been approved and are being implemented.

One portion of the NSW Management Strategy, the Wastewater Discharge Requirements rule (T15A NCAC 2B .0234), establishes specific nutrient control requirements for the point source dischargers in the basin.

- 1) The rule sets forth a system of Total Nitrogen allocations to achieve the stated 30 percent reduction in point source loads to the estuary. Toward this end, it:
 - 1) sets a wasteload allocation of 1.64 million pounds TN per year (at the estuary) for all point source dischargers in the basin.
 - 2) further divides this allocation among the existing dischargers.
 - 3) requires that large facilities (those with permitted flows equal to or greater than 500,000 gallons per day) meet their individual TN allocations, effective in 2003.
 - 4) prescribes what allocations are required for new and expanding dischargers as well as how they will be handled when permitted facilities consolidate (regionalize) their wastewater discharges.
 - 5) provides that interested dischargers can form a group compliance association and work together to meet their combined TN allocation. Under this option, the individual

dischargers are subject to TN limits in a group compliance NPDES permit in lieu of the TN limits in their individual NPDES permits.

- 2) The rule also prescribes Total Phosphorus limits for the most significant dischargers in the basin.

The proposed permit is a group compliance permit as described above and is the first of its kind to be developed under the Strategy's Wastewater Discharge rule.

PERMIT OVERVIEW

Co-Permittees

The Neuse River Compliance Association ("NRCA," or the "Association") is a not-for-profit corporation established in North Carolina. The purpose of the Association is to function as a "group compliance association" as provided in the Wastewater Discharge rule.

The Association's members include both public and private entities, all of which discharge treated wastewater in the Neuse River basin under existing individual NPDES permits.

The Association and each of its members will be co-permittees under the proposed permit. In general, the Association will serve as the contact between the Division and its co-permittee members in matters pertaining to this permit.

Scope of the Permit

The proposed group compliance permit will govern the combined discharge of Total Nitrogen from the co-permittees to the estuary. Requirements in this permit will supplement those in the co-permittee members' individual NPDES permits but will not replace the requirements in the individual permits except where specifically stated.

Each member's individual NPDES permit will remain in effect and will continue to govern the other parameters of concern for that discharge.

PROPOSED EFFLUENT LIMITATIONS AND MONITORING REQUIREMENTS

The Division has developed effluent limitations, monitoring requirements, and special conditions for the proposed permit based on the Neuse River Basin Nutrient Management Strategy, the approved TN TMDLs, and extensive deliberations with the USEPA Region 4 and with the affected dischargers.

Effluent Limitations

Group and Individual TN Limitations

Appendix A of the permit contains the definitive list of (1) Co-Permittee Members in the Association, (2) the discharge and equivalent estuary TN allocations for each member, and (3) the transport factor for each. These values are taken from allocation method in the Wastewater Discharge rule.

The appendix also includes the sum total of the member's estuary allocations, which represents the Association Estuary TN Allocation. All TN allocations are expressed in terms of pounds of TN per year and apply to a calendar year period.

The permit establishes TN limits for the Association and, under certain conditions, for the individual co-permittee members. Any group or individual TN limit in this permit is equal to the corresponding estuary TN allocation in Appendix A.

The Association will be subject to an estuary TN limit (equal to its Estuary TN Allocation) throughout the term of this permit.

Individual members of the Association will be subject to individual TN limits only in those years in which the Association exceeds its limit. In that case, each co-permittee member is subject to its

individual TN limit from Appendix A. If the Association as a whole complies with its limit, the member dischargers are not subject to individual limits for that calendar year.

Changes in Membership or TN Allocations

The TN allocations of the co-permittee members can change as the result of purchases, sales, trades, leases, and other transactions. These changes, in turn, affect the Association’s TN allocation. Changes in membership also affect the Association’s allocation due to the addition or subtraction of the discharger’s allocation from the group total.

Whenever changes in the allocations or the membership occur, Appendix A of the permit must be modified in order to formally incorporate those changes and adjust the enforceable limits in the permit.

The TN allocations and limits are expressed as calendar year values; therefore, any adjustments can become effective only at the beginning of the calendar year (January 1) following the transaction or membership change. The Association will notify the Division each year of proposed changes in Appendix A (see Reporting Requirements, below).

Initial Co-Permittee Members

The Association is currently comprised of the following co-permittee members and facilities:

Co-Permittee Member	Facility
1. Town of Apex	Middle Creek WWTP
2. Town of Benson	Benson WWTP
3. Town of Cary	North WWTP South WWTP
4. Johnston County	Central Johnston County WWTP White Oak Plantation WWTP Buffalo Creek WWTP
5. Town of Clayton	Little Creek WWTP
6. Contentnea MSD	Contentnea MSD WWTP
7. NC DHHS	Butner WWTP
8. Town of Farmville	Farmville WWTP
9. City of Goldsboro	Goldsboro WWTP
10. Town of Kenly	Kenly Regional WWTP
11. City of Kinston	Peachtree WWTP Northside WWTP
12. Town of La Grange	La Grange WWTP
13. City of New Bern	New Bern WWTP
14. City of Raleigh	Neuse River WWTP
15. Town of Wake Forest	Wake Forest WWTP
16. City of Wilson	Wilson WWTP
17. Town of Zebulon	Little Creek WWTP

The TN allocation for each member is included in Appendix A of the permit. These allocations include the original allocation assigned to the facility in the Wastewater Discharge rule plus any allocation acquired through regionalization or other transactions.

At this permit is released for public review, several additional dischargers are attempting to complete the process of joining the Association. The Division proposes to include any such facilities as co-permittees under this permit if the Association provides a revised permit application prior to the end of the public comment period. The facilities and their TN allocations would be added to the list in Appendix A and the Association TN allocation would be adjusted as already described to reflect those additional facilities.

The Association also holds the TN allocation originally assigned to Burlington Industries (formerly NC0001376), which the industry deeded to the Association.

Monitoring Requirements

All members of the Association are required under the individual NPDES permits to monitor TN on a regular basis and report the results in their Discharge Monitoring Reports (DMRs). The group compliance permit does not duplicate these monitoring requirements or require additional TN monitoring.

Instream monitoring is not required under this permit. However, it is required of the co-permittee members through their individual NPDES permits and, for most, is conducted by the Lower Neuse Basin Association, a coalition of dischargers that, by agreement with the Division, conducts instream monitoring for its members.

Reporting Requirements

Each member will continue to report its TN monitoring results on its individual DMRs. The Association is not required to duplicate these detailed reports.

The Association will submit year-end, mid-year, and 5-year reports on its activities to the Division. The year-end report (due February 28 of each year) will include an accounting of the Association's and its members' TN discharges for the previous calendar year for compliance purposes. It will also include a list of transactions during that period affecting TN allocations, an assessment of progress made, and planned activities for the coming year. The mid-year report (due August 31 of each year) will include an updated accounting of TN discharges for informational purposes. It will also identify any changes in TN allocations or in membership for the following year and will serve as a request to modify Appendix A to incorporate those changes. The 5-year report (due July 1, 2007) is intended to ensure that the Division and the Association agree on the group and individual allocations at the end of the permit term.

Compliance

The Association is required by rule to make offset payments to the Wetlands Restoration Fund for any calendar year in which it exceeds its TN limit. In addition, the Division may take appropriate enforcement action against the Association or its co-permittee members or both in the event that they exceed applicable TN limits in the permit.

OTHER SPECIAL CONDITIONS

Total Nitrogen. The permit includes a special condition describing how Total Nitrogen mass loads are to be calculated.

PUBLIC COMMENT ON DRAFT PERMIT

The Division solicited public comment on the draft permit. Public notices were published once in each of the following newspapers during the period of October 19-23, 2002, and comments were accepted through November 22:

Newspaper	County
<u>Daily Reflector</u>	Pitt
<u>Franklin Times</u>	Franklin
<u>News & Observer</u>	Wake
<u>Oxford Public Ledger</u>	Granville
<u>Pamlico News</u>	Pamlico
<u>Smithfield Herald</u>	Johnston
<u>Wilson Times</u>	Wilson

Newspaper	County
<u>Washington Daily News</u>	Beaufort
<u>Courier Times</u>	Person
<u>Durham Morning Herald</u>	Durham
<u>Rocky Mount Telegram</u>	Nash

The Division received two responses during the comment period, from the Permittee and from the USEPA Region 4, and the Response to Comments is attached. The following is a summary of significant permit changes made in response to those comments:

Reference to Minor Permit Modifications. Condition A.(2).(b).(iv.) of the draft permit, which refers to certain permit modifications as "minor," is inconsistent with federal NPDES regulations and has been removed from the permit.

Addition of Appendix B. The final permit includes a new Appendix B, which contains a complete list of facilities that were assigned a TN allocation under the State's nutrient management rule for wastewater dischargers in the Neuse River Basin. The new appendix also specifies the aggregate TN allocation for these point sources, as established in the State rule and in the approved TN TMDL for the Neuse River estuary.

Description of Applicability of Standard Permit Conditions. The standard conditions in Parts II and III of the permit were developed for and intended to apply to permittees that own or operate treatment facilities. The Association is a governing body and neither owns nor operates any such facilities; and the Co-Permittees are subject to the same conditions through their individual NPDES permits. Thus, many of the conditions are not applicable. The final permit retains Parts II and III in their entirety. In addition, it includes a new condition (at the beginning of Part II) which defines the applicability and enforceability of these standard conditions.

In addition, the Association requested a change in the list of Co-Permittee Members on December 18, 2002.

Revisions to Appendix A. The Association's Board voted at its December meeting to delay admission of USMC Cherry Point Air Station until certain concerns are resolved. The issue appears to be the facility's inability, as a federal installation, to agree to monetary penalties under specific conditions, as expected of all Association members. The issue is unprecedented in North Carolina's permitting experience. The Division agrees that it is the Association's prerogative to accept or deny admission under these circumstances. The roster and allocations in Appendix A have been modified to delete Cherry Point, with the understanding that it can be restored once the issue is resolved. This means, however, that Cherry Point's membership cannot become effective until 2004.

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