

1 **Department of Environmental Quality**

Trading Framework Concepts II
April 06, 2018

2 **Scope and Purpose**

- Of the trading framework:
 - “The primary purpose of this document is to provide guidance regarding nutrient trading options in North Carolina as presently authorized in legislation and rule.”
 - Secondary purpose: inform concurrent or future rule development
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- Of today's meeting:
 - Provide updates on trading framework direction
 - Incorporate feedback on challenging issues into the next discussion draft of the trading framework

3 **Nutrient Offset Rule Revision Update**

- 1 •Nutrient offset rule (15A NCAC 02B .0240) being drafted for readoption
 - Staff presently working to incorporate EMC member feedback on prior drafts
 - Fiscal note under development
 - Notable issues:
 - Various permanent/temporary crediting approaches under consideration
 - New provisions governing DMS and developer-responsible nutrient offset projects
 - Potential change re: nutrient offset/stream credit stacking
 - Revisiting PS:NPS trading ratios in conjunction with wastewater rules

4 **Trading Framework Development Timeline**

- 1 •NSAB presentation: Trading Framework Concepts
 - June 2017
 - NSAB presentation and Framework Discussion Draft released
 - September 2017
 - DWR Memo providing summary of comments, response
 - October 2017
 - NSAB presentation: Trading Framework Concepts II
 - April 2018
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 - Nutrient offset rule proceeding separately through rules readoption process.
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2 Overview

5 **Terminology and Concepts**

- Nutrient reduction practices
- Nutrient reduction projects
- Nutrient load reduction credit: credit for reductions from baseline
 - Load reduction credit for direct compliance (e.g., existing development rules)
 - Nutrient offset credit (trading)

- Nutrient allocation (point sources) can be traded and allow increased loading, but not a credit *per se*
- Joint compliance: multiple options included in existing rules

6 **Trading Framework Contents**

- Trading Concepts
 - Trading v. Joint Compliance
 - Trading ratios
 - Credit stacking
- Nutrient offset credit trading
 - Guidance and scenarios
- Nutrient allocation trading (via permit mods)
 - Guidance for point sources
- Joint compliance
 - Group compliance
 - Jurisdictional compliance

7 **Discussion Issue #1**

- Allowable location of nutrient reduction practice installation for existing development compliance: within jurisdiction or anywhere?
 - Jordan (.0266):
 - “The load reduction goal shall be designed to achieve [the reduction from] existing developed lands with the police power jurisdiction of the local government.”
 - But also... “In addition, a local government may satisfy the requirements of this item through reduction in nutrient loadings from other sources in the same subwatershed to the extent those reductions go beyond measures otherwise required by statute or rule.”
 - Falls (.0278):
 - “A local government’s load reduction need shall be based on the developed lands that fall within its general police powers and within the Falls watershed”
 - But also... “The program shall address ... load reduction opportunities intended from ... Lands other than those on which the local government’s load reduction need is based..., including lands both within and outside its jurisdiction...”
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8 **Discussion Issue #2**

- Who gets credit for a nutrient reduction practice?
 - Offset credit trading v. direct compliance
 - Payer vs. implementer
 - Clearing ownership of credits
 - Between sectors
 - New development overtreatment
 - Practices on agricultural land
 - Between jurisdictions
 - Effect of contractual provisions?
 - Splitting credits?

9 **Discussion Issue #3**

- Who can generate nutrient offset credits?
 - Private mitigation banks
 - DMS
 - NGOs?
 - Local governments?
 - Developers?
 - Point sources?
- Who can sell nutrient offset credits?
 - No restrictions
- Who can buy nutrient offset credits?
 - Regulated party

10 **Discussion Issue #4**

- Jurisdictional compliance
 - Wastewater + stormwater compliance bubble
 - Wastewater overtreatment
 - Develop nutrient reduction practice
 - Stormwater overtreatment
 - Application of trading ratios
 - Compliance with state/federal NPDES permitting requirements, Clean Water Act, EPA guidance
 - Verifying PS compliance and NPS reductions through nutrient offset rule?
 - Joint compliance, trading, or something different altogether?

11 **Discussion Issue #5**

- Permanent credits, term credits, or both?
 - Current practice and guidance for nutrient offset credits:
 - All credits term, up to 30 years for agricultural buffer restoration
 - Projects typically protected with permanent preservation agreements
 - Stormwater maintenance agreements
 - Language from prior discussion draft gone or substantially rewritten.
 - Direct compliance for existing development?
 - Any future changes part of offset rule presently being readopted.
 - Permanent v. temporary practices
 - Permanent v. temporary credit
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12 **Submitted questions?**

13 **DWR wants feedback!**

- 1 •DWR is still in the discussion draft phase for this guidance!
 - If you have new ideas...
 - If there are sticking points...

- If you think we missed or mischaracterized something...
- If you think various parts require further explanation...
- If you support various aspects of this framework...
- ... We want to incorporate your perspective!

14 **QUESTIONS? FEEDBACK?**