

**QUARTERLY REPORT**

**TO THE**

**ENVIRONMENTAL REVIEW**

**COMMISSION**

**ON**

**ENVIRONMENTAL MANAGEMENT**

**COMMISSION ACTIVITIES**

**October 2005**

**YEAR 2005-2006 FIRST QUARTER REPORT TO ERC  
IN ACCORDANCE WITH § 143B-282(b)**

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## **I. STANDING COMMITTEE STATUS REPORTS\***

\*Please note that meetings scheduled to occur in September were postponed until October due to the Governor's request to eliminate travel during the time following Hurricane Katrina. Therefore, actions from those meetings will be reported in the next quarterly report.

### **A. WATER ALLOCATION COMMITTEE**

The Water Allocation Committee received information regarding the Charlotte Mecklenberg Utility Interbasin Transfer Certificate and concerns about the protection of an endangered species in the Goose Creek watershed.

### **B. WATER QUALITY COMMITTEE**

The Water Quality Committee approved sending the New River Basinwide Water Quality Plan to public review, considered options for handling major variances from the Neuse and Tar-Pamlico buffer rules as they apply to mining operations, was briefed on development of nutrient reduction rules for Jordan Reservoir, and took action to recommend initiating rulemaking for reclassifying the Fontana Lake North Shore area to Outstanding Resource Waters in accordance with Session Law 2005-97.

### **C. GROUNDWATER COMMITTEE**

The Groundwater Committee did not meet during this quarter.

### **D. AIR QUALITY COMMITTEE**

There were no air quality actions by the full Environmental Management Commission during this quarter. However, the Air Quality Committee took the following actions: In July, the Air Quality Committee approved sending to the EMC a request to take to public hearing proposed clean air interstate rules. The proposed rules control emissions of nitrogen oxides and sulfur dioxide to reduce concentration of ozone and fine particulates. In July and August, the Air Quality Committee discussed rules to reduce emissions of mercury from coal-fired electric utility boilers and turbines.

### **E. STEERING COMMITTEE**

The Steering Committee did not meet during this quarter.

### **F. NPDES COMMITTEE**

The NPDES Committee met to review a Special Order of Consent (SOC) negotiated between the Department, Division of Water Quality and the City of Oxford.

**II. SUMMARIES OF ENVIRONMENTAL  
MANAGEMENT COMMISSION (EMC)  
ACTIONS**

Agenda Item: Request to Confirm Recommendation To Appoint Two New Members to the Water Pollution Control System Operators Certification Commission

Explanation: It is recommended that Mr. Gale D. Howell, Jr. and Mr. Troy M. Perkins be appointed as members of the Water Pollution Control System Operators Certification Commission.

Mr. Howell will be the representative of a private industry who is responsible for supervising the treatment or pretreatment of industrial wastewater. Mr. Howell's term will expire June 30, 2008.

Mr. Troy M. Perkins will be replacing Mr. Frankie Buck, who resigned from the Commission effective April 4, 2005. He will be the representative of a collection system operator for a North Carolina municipal collection system. Mr. Perkins's term will expire June 30, 2006.

Recommendation: It is recommended by the Water Pollution Control System Operators Certification Commission that the above outlined information be confirmed by the EMC.

**EMC ACTION: The EMC approved the recommendation made by the Water Pollution Control System Operators Certification Commission to appoint two members.**

Agenda Item:

Approval of State Revolving Loans for the Towns of Ayden and Benson

Explanation:

Local units of government are authorized to submit applications under the "North Carolina Clean Water Revolving Loan and Grant Act of 1987" for wastewater treatment and wastewater collection facilities.

There were five (5) eligible applications received requesting a total of \$6,809,215 in loan funds from the General Revolving Loan Account. The availability of funds from revolving loans and interest this period amounts to \$3,727,131. Additional funds may be made available from projects that will be bid soon. Those funds may be used to further fund projects this review cycle.

The Construction Grants and Loans Section has reviewed and established priority for the applications received by the March 31, 2005 deadline. Attached is a copy of the list by category and priority rating of the General Revolving Loans.

The approval of the General Revolving Loans will be contingent on approval by the Local Government Commission.

Recommendation:

It is the recommendation of the Division that the Commission review and certify funding for the General Revolving Loans in order of priority subject to availability of funds.

**EMC ACTION: The EMC approved the recommendation to review and certify funding for the loan program.**

Agenda Item: Request to Approve the Implementation Plan for the Coastal Habitat Protection Plan

Explanation: In December the Environmental Management Commission (EMC), along with the Marine Fisheries and Coastal Resources Commissions, approved the Coastal Habitat Protection Plan (CHPP). Included in that approval was a commitment by the three commissions and the Department of Environment and Natural Resources to develop Implementation Plans by July 1, 2005. At their May meeting the Water Quality Committee (WQC) authorized the Division to proceed to the EMC with the Implementation Plan included in this package. Also included is a copy of the Environmental Defense Funds' comments on the Implementation Plans.

This Implementation Plan includes a variety of actions for the Division and EMC to undertake during the 2005-2007 Biennium. Actions included are actions that either do not require additional resources or are contingent on obtaining additional resources. There are four actions that may eventually result in rule-making by the EMC. These actions include review of the rules governing coastal waste treatment disposal (15A NCAC 2H .0404) and wastewater monitoring; development of the universal stormwater management program, and evaluation of stormwater controls in the Cape Fear and White Oak River Basin. All actions are intended to protect and improve coastal fish habitat to support coastal fisheries.

Recommendation: That the EMC approve the Implementation Plan as presented.

**EMC ACTION: The EMC approved the implementation plan for the Coastal Habitat Protection Plan.**

Agenda Item:

Request to Proceed to Public Hearing with the Proposed Reclassifications of the Yadkin River to Class Water Supply-IV Critical Area (WS-IV CA) and Upper Neuse River to Class WS-V

Explanation:

•Yadkin River (Yadkin and Surry Counties, Yadkin-Pee Dee River Basin)

The Town of Elkin submitted a request to reclassify a segment of the Yadkin River from Class C to Class WS-IV CA. The purpose of this reclassification is to allow a new intake structure to be placed in the river in order to supply the town with an emergency source of water. DWR and DEH staff have approved of the proposed intake. The waters to be reclassified meet water supply water standards according to DWQ staff.

If reclassified, development and discharge restrictions will apply. However, there are no current or planned dischargers and no planned development in the proposed reclassification area. Yadkin County and the Town of Elkin, the only local governments with jurisdiction in the reclassification area, would need to modify their water supply watershed protection ordinances within 270 days after the reclassification effective date. Yadkin County does not object to this reclassification, and the Town of Elkin has jurisdiction in the proposed water supply watershed areas that are within Surry County.

•Upper Neuse River (Wake County, Neuse River Basin)

A request to reclassify a segment of the upper Neuse River, Richland Creek and associated unnamed tributaries from Class WS-IV and WS-IV CA to WS-V was submitted by the City of Raleigh (“City”), although these waters were recently reclassified to WS-IV and WS-IV CA per the request of the Town of Wake Forest (“Town”). The reason for this reclassification is that the Town decided to merge water systems with the City after the WS-IV recent reclassification, and neither municipality have used, currently use, or intend to use the waters as a public water supply source. The Town does not object to this reclassification. No

water quality study was required for this proposed reclassification as the waters are currently classified as a water supply.

If reclassified, nonpoint source and stormwater pollution control requirements associated with the WS-IV classification will no longer be required by the State. The local governments with jurisdiction in the proposed reclassification area would not be required to revise their water supply watershed protection ordinances as a result of the proposed reclassification to WS-V. However, wastewater discharge permit requirements associated with Water Supply classifications will apply as in-stream water supply water quality standards remain applicable. In addition, please note that buffer, stormwater, wastewater discharge, and other restrictions associated with the existing supplemental classification of Nutrient Sensitive Waters (NSW) will remain in effect as the NSW classification is not being removed as part of this reclassification process.

The Water Quality Committee approved these requests at their May 2005 meeting. The proposed effective date for these reclassifications is May 1, 2006.

Recommendation:

The Director and staff recommend that the Environmental Management Commission grant staff permission to proceed to public hearing for the above-mentioned proposed reclassifications.

**EMC ACTION: The EMC approved sending to public hearing the proposed surface water reclassifications.**

**In addition, the Chairman acknowledged that the Water Quality Committee duly acted in accordance with SL 2005-97 to initiate rulemaking to consider an ORW management strategy for the Fontana Lake North Shore.**

## **IV. EXPECTED FUTURE AGENDA ITEMS**

**Future Air Quality Items**

**Future Groundwater Items**

**Future Water Quality Items**

# Air Quality Committee/EMC

## Possible Future Items

Oct 05	<ul style="list-style-type: none"> <li>-Best Available Retrofit Technology (263a)</li> <li>-NOx and VOC RACT for Charlotte Ozone Nonattainment Area (431)</li> <li>-Delegation of Drycleaning MACT and NSPS to DWM (432)</li> <li>-Clean Air Inter State Rule (426)</li> </ul>	<u>Adoption</u> <ul style="list-style-type: none"> <li>-Definition of Administrator (406)</li> <li>-Permit Exemption for Asphalt Cement Storage Tanks (407)</li> <li>-Intent to Construct (409)</li> <li>-Clarify When a Modification Must Be in Compliance with the Air Toxic Rules (397)</li> <li>-Update Address in 2D .0103 (392)</li> <li>-Revision of Ranking of Incinerators in 2D .1201 (403)</li> <li>-Excluding Trades Under the Nitrogen Oxide Budget Trading Program from 2Q .0523 (405)</li> <li>-Correct Washington Regional Office Address in 2D .1905 (410)</li> <li>-Make Emission Inventory Part of Permit Application (411)</li> <li>-Open Burning (419)</li> <li>-Compliance Certification for Title V Permits (408)</li> <li>-Exclusionary Rule for Air Curtain Burners (387)</li> <li>-Implementation of New Authority: Banking and Trading and Credit for Early Reductions (323c)</li> <li>-Elimination of an Unnecessary Reporting Requirement (421)</li> <li>-Clarification of Transportation Conformity Rules (423)</li> </ul>
		<u>Hearing Request</u> <ul style="list-style-type: none"> <li>-Clean Air Inter State Rule (426)</li> </ul>
Nov 05	<ul style="list-style-type: none"> <li>-Best Available Retrofit Technology (263a)</li> <li>-NOx and VOC RACT for Charlotte Ozone Nonattainment Area (431)</li> <li>-Delegation of Drycleaning MACT and NSPS to DWM (432)</li> <li>-Clean Air Mercury Rule (427)</li> </ul>	
Jan 05	<ul style="list-style-type: none"> <li>-Replace 08/17/71 Method 5 with Method 202 in Rule .0501(c)(3) and Stack Testing (100, 297)</li> <li>-Stack Testing (148a)</li> <li>-Leaks at Gasoline Terminal Clarification (412)</li> <li>-General Fugitive Dust Control (276)</li> <li>-Clarify Crusher Requirements to Use Wet Suppression at All Times (313)</li> </ul>	<u>Hearing Requests</u> <ul style="list-style-type: none"> <li>-Best Available Retrofit Technology (263a)</li> <li>-NOx and VOC RACT for Charlotte Ozone Nonattainment Area (431)</li> <li>-Delegation of Drycleaning MACT and NSPS to DWM (432)</li> <li>-Revision of Reporting Requirements for Excess Emissions and Deviations (424)</li> </ul>
Jan 06 cont	<ul style="list-style-type: none"> <li>-Revision of Small Definitional Level for Peak Shaving Generators (371)</li> <li>-Additional Permit Conditions Requiring Public Participation (428)</li> <li>-Prohibition of Submittal of False Information (429)</li> <li>-Clarification of Title V Administrative Amendments Re State Enforceable Only Conditions (430)</li> </ul>	<ul style="list-style-type: none"> <li>-Change the Definition of AInsignificant Activities Because of Category@ (425)</li> <li>-Clean Air Mercury Rule (427)</li> </ul>
Mar 06		<u>Hearing Request</u> <ul style="list-style-type: none"> <li>-Replace 08/17/71 Method 5 with Method 202 in Rule .0501(c)(3) and Stack Testing (100, 297)</li> <li>-Stack Testing (148a)</li> <li>-Leaks at Gasoline Terminal Clarification (412)</li> <li>-General Fugitive Dust Control (276)</li> </ul>

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May 06		<p><u>Adoption</u></p> <ul style="list-style-type: none"> <li>-Clean Air Inter State Rule (426)</li> </ul>
July 06		<p><u>Adoption</u></p> <ul style="list-style-type: none"> <li>-Best Available Retrofit Technology (263a)</li> <li>-NOx and VOC RACT for Charlotte Ozone Nonattainment Area (431)</li> <li>-Delegation of Drycleaning MACT and NSPS to DWM (432)</li> <li>-Revision of Reporting Requirements for Excess Emissions and Deviations (424)</li> <li>-Change the Definition of <del>A</del>Insignificant Activities Because of Category@ (425)</li> <li>-Clean Air Mercury Rule (427)</li> </ul>
July 06 cont.		<p><u>Adoption</u></p> <ul style="list-style-type: none"> <li>-Replace 08/17/71 Method 5 with Method 202 in Rule .0501(c)(3) and Stack Testing (100, 297)</li> <li>-Stack Testing (148a)</li> <li>-Leaks at Gasoline Terminal Clarification (412)</li> <li>-General Fugitive Dust Control (276)</li> </ul>
Sep 06		<ul style="list-style-type: none"> <li>-Clarify Crusher Requirements to Use Wet Suppression at All Times (313)</li> <li>-Revision of Small Definitional Level for Peak Shaving Generators (371)</li> <li>-Revision of Reporting Requirements for Excess Emissions and Deviations (424)</li> <li>-Change the Definition of <del>A</del>Insignificant Activities Because of Category@ (425)</li> <li>-Additional Permit Conditions Requiring Public Participation (428)</li> <li>-Prohibition of Submittal of False Information (429)</li> <li>-Clarification of Title V Administrative Amendments Re State Enforceable Only Conditions (430)</li> </ul> <p><u>Hearing request</u></p> <ul style="list-style-type: none"> <li>-Revision of AAL for Carbon Tetrachloride (376)</li> <li>-Distributed Power Generation Using Diesel and Other Fuels (347)</li> <li>-Revise AAL for 1,3-Butadiene and Carbon Tetrachloride (299)</li> <li>-AAL for MDI, DI, Acrylamide, Chromium VI (124)</li> <li>-Reportng Requirements Conform with General Statutes (361)</li> <li>-Particulate Emissions from Spray/Finish Booths and Woodworking (21, 68)</li> <li>-Glass Melting Furnaces (328)</li> <li>-Boilers and Industrial Furnaces Burning Hazardous Waste (330)</li> <li>-Amend Definition of <del>A</del>pplicable Requirement@ to add reference to 2D .900,.1400, and .1200 (334)</li> <li>-Implementation of New Authority I/M Codes (323a1)</li> <li>-Implementation of New Authority sales and service of analyzers (323d)</li> </ul>

		<p>Woodworking (21, 68)  -<b>Glass Melting Furnaces (328)</b></p> <p><u>Adoption</u></p> <p>-Revision of AAL for Carbon Tetrachloride (376)  -Distributed Power Generation Using Diesel and Other Fuels (347)  -Revise AAL for 1,3-Butadiene and Carbon Tetrachloride (299)  -AAL for MDI, DI, Acrylamide, Chromium VI (124)  -Boilers and Industrial Furnaces Burning Hazardous Waste (330)  -Amend Definition of <b>AApplicable Requirement@</b> to add reference to 2D .900,.1400, and .1200 (334)  -Implementation of New Authority I/M Codes (323a1)  -Implementation of New Authority sales and service of analyzers (323d)  -Reporting Requirements Conform with General Statutes (361)  -Particulate Emissions from Spray/Finish Booths and Woodworking (21, 68)  -<b>Glass Melting Furnaces (328)</b></p>
Jan 07		<p>-Permit Exemption for County Grain Elevators and Mills (325)  -Revision of Portable Generator Permit Exemption (420)  -Clarification of Storage Tank Permit Exemption for Ethanol-Based Fuels (422)</p>
Jan 07 cont.		
Mar 07		<p><u>Hearing request</u></p> <p>-Permit Exemption for County Grain Elevators and Mills (325)  -Revision of Portable Generator Permit Exemption (420)  -Clarification of Storage Tank Permit Exemption for Ethanol-Based Fuels (422)</p>
May 07		<p><u>Adoption</u></p> <p>-Permit Exemption for County Grain Elevators and Mills (325)  -Revision of Portable Generator Permit Exemption (420)  -Clarification of Storage Tank Permit Exemption for Ethanol-Based Fuels (422)</p>
		<p>-Replacement of SIC with NAICS in the Air Toxic Rules (369)  -Change Definition of <b>ASmall Facility@</b> and <b>ASynthetic Minor Facility@</b>  -Commence Construction and Operation  -Elimination of 40% Opacity (349)  -Good O&amp;M Maintenance (302)  -Mercury Emissions from Combustion Sources (356)  -Exempt Air Curtain Burners from Air Toxic Rules (364)  -Removal of Permit Exemption for Incinerators (315)  -Higher Allowable Particulate Emission Rate for Small Wood Fired Indirect Heat Exchangers (286)  -Deletion of Facility-Wide Language in VOC Permit Exemption (370)  -Revision of Wording of Monitoring Requirements in Several Incinerator Rules (382)  -Allowing Ambient Monitoring for Air Toxic Compliance Determination (404)</p>

Jul 07	<p><u>Hearing Request</u></p> <ul style="list-style-type: none"> <li>-Replacement of SIC with NAICS in the Air Toxic Rules (369)</li> <li>-Change Definition of <u>ASmall Facility@</u> and <u>ASynthetic Minor Facility@</u></li> <li>-Commence Construction and Operation</li> <li>-Elimination of 40% Opacity (349)</li> <li>-Good O&amp;M Maintenance (302)</li> <li>-Mercury Emissions from Combustion Sources (356)</li> <li>-Exempt Air Curtain Burners from Air Toxic Rules (364)</li> <li>-Removal of Permit Exemption for Incinerators (315)</li> <li>-Higher Allowable Particulate Emission Rate for Small Wood Fired Indirect Heat Exchangers (286)</li> <li>-Deletion of Facility-Wide Language in VOC Permit Exemption (370)</li> <li>-Revision of Wording of Monitoring Requirements in Several Incinerator Rules (382)</li> <li>-Allowing Ambient Monitoring for Air Toxic Compliance Determination (404)</li> </ul>
Jul 07 (cont)	
Dec 07	<ul style="list-style-type: none"> <li>-Deletion of Facility-Wide Language in VOC Permit Exemption (370)</li> <li>-Revision of Wording of Monitoring Requirements in Several Incinerator Rules (382)</li> <li>-Allowing Ambient Monitoring for Air Toxic Compliance Determination (404)</li> </ul>

# Groundwater Committee/EMC Possible Future Items

July 2005	(Meeting Canceled)	(No items scheduled)
Sept 2005	(Meeting Canceled)	(No items scheduled)
Oct 2005	(No items scheduled)	<u>DWM</u> - Request to APPROVE of Proposed Rules to Modify the Testing Requirements Under Title 15A NCAC 2L .0115.
Nov 2005	<u>DWM- SUPERFUND SECTION ITEM</u> Information on Rulemaking for the Dry Cleaning Solvent Cleanup Act (DSCA) Program to Include Required Minimum Management Practices in 15A NCAC 2S .0202  <u>DWQ-GW ITEM</u> Status of the 2L Stakeholders Group	(No items scheduled)
Jan 2006	<u>DWM- SUPERFUND SECTION ITEM</u> Request to Proceed to Public Notice and Hearing for Implementation of New Rules From the Dry-Cleaning Solvent Cleanup Fund Program  <u>DWQ-GW ITEM</u> Proposed Draft Language in 15A NCAC 2L .0202 from the Stakeholders Process.	(No items scheduled)
Mar 2006	(No items scheduled at this time)	<u>DWM- SUPERFUND SECTION ITEM</u> Request to Proceed to Public Notice and Hearing for Implementation of New Rules From the Dry-Cleaning Solvent Cleanup Fund Program

## Water Quality Committee/EMC Possible Future Items

	<b>WQC Agenda</b>	<b>EMC Agenda</b>
<b>Nov. 2005</b>	<ul style="list-style-type: none"><li>• Request Approval of the Annual Agricultural Reports in the Tar-Pamlico and Neuse River Basins</li><li>• Evaluation of Coastal Stormwater Rules</li><li>• Request for a Variance in the High Point Randleman Water Supply Watershed</li><li>• Request to Proceed to EMC with Reclassifications in the Broad River Basin to Water Supplies and a segment to ORW</li><li>• Request to Proceed to EMC with Reclassification of Fontana Lake North Shore to ORW</li></ul>	<ul style="list-style-type: none"><li>• Request Approval of the Annual Agricultural Reports for the Tar-Pamlico and Neuse River Basins</li><li>• Request to Send Draft Universal Stormwater Management Program Rules to Public Hearing</li><li>• Request to Send a Proposed ORW Management Strategy for Fontana Lake's North Shore Area to Public Hearing</li><li>• Update on the Stormwater Rules and the RRC Actions</li></ul>

<b>Jan. 2006</b>	<ul style="list-style-type: none"> <li>• Request Permission to Send Draft Roanoke River Basinwide Water Quality Plan to Public Review</li> <li>• Consideration of Trout Waters Petition by Trout Unlimited and Catawba Riverkeeper Foundation and possible draft rules</li> <li>• Request to Go to EMC for Permission to Proceed to Public Hearing with Proposed Rule Amendments in Accordance with Federal Triennial Review of Water Quality Standards</li> </ul>	<ul style="list-style-type: none"> <li>• Request Adoption of NonDischarge Waste (2T) Rules</li> <li>• Request to Send Rules for Jordan Lake Management Strategy to Public Hearing</li> <li>• Hearing Officer's Report on Proposed Amendments to 15A NCAC 2B .0240, the Nutrient Offset Rule</li> <li>• Request to Send Reclassifications to Public Hearing for Broad River Basin Water Supply and ORW Segments</li> </ul>
<b>Mar. 2006</b>	<ul style="list-style-type: none"> <li>• Request to Approve a Report to the ERC on water quality data of Water Supply Reservoirs per SB 981</li> <li>• Request to Approve a Report to the ERC on Progress in Developing and Implementing Nutrient Mgt Strategies on Jordan Reservoir per SB 981</li> </ul>	<ul style="list-style-type: none"> <li>• Request to Approve a Report to the ERC on water quality data of Water Supply Reservoirs per SB 981</li> <li>• Request to approve a Report to the ERC on Progress in Developing and Implementing Nutrient Mgt Strategies on Jordan Reservoir per SB 981</li> <li>• Request Adoption of Universal Stormwater Management Plan voluntary rules</li> <li>• Request to Send Proposed Rule Amendments in Accordance with Federal Triennial Review of Water Quality Standards to Public Hearing</li> <li>• Request to Send Trout Management Strategy Rules for a Segment of the Catawba River to Public Hearing</li> </ul>
<b>May 2006</b>	<ul style="list-style-type: none"> <li>• Request Permission to Send Draft White Oak River Basinwide Water Quality Plan to Public Review</li> </ul>	<ul style="list-style-type: none"> <li>•</li> </ul>
<b>July 2006</b>	<ul style="list-style-type: none"> <li>• Request Approval to Send Final Draft Roanoke River Basinwide Water Quality Plan to EMC</li> </ul>	<ul style="list-style-type: none"> <li>• Request Approval of Final Draft of Roanoke River Basinwide Water Quality Plan</li> <li>• Hearing Officers' Report and Request Adoption of Jordan Reservoir Nonpoint Source Management Rules</li> <li>• Request to Approve the Hearing Officer's Recommendation to Reclassify Waters Draining to the North shore of Fontana Lake as ORW</li> </ul>

\*Dates shown are projections. Actual schedules could vary 1-3 months either direction.