

# **N.C. ENVIRONMENTAL MANAGEMENT COMMISSION QUARTERLY REPORT TO THE ENVIRONMENTAL REVIEW COMMISSION**

Covering the period July 1, 2009 to September 30, 2009

This quarterly report is submitted to the Environmental Review Commission on the EMC operations, activities, programs, and progress pursuant to the requirements of G.S. 143B-282(b). This report is for the months of July 1, 2009 to September 30, 2009 and provides information on the actions of the EMC.

## **I: Nutrient Control Strategies Sections 2, 3 and 4 of Session Law 2005-190 (as amended by SL 2006-259 and SL 2009-486)**

### **Falls Lake - Section 2. (b) of Session Law 2005-190**

The EMC is required to report its progress in assessing and identifying nutrient control strategies and criteria necessary to prevent excess nutrient loading in the Falls Lake water supply reservoir. The following is an update on the progress.

DWQ is preparing to request approval of the calibrated nutrient response model from the EMC in accordance with G.S. 143-215.1(c5).

DWQ held its 7th meeting with stakeholders on July 16, 2009 as part of the rule making process to develop a nutrient management strategy for Falls Lake. The objective of this meeting was to engage stakeholders in discussion about the overall nutrient reduction needs of the lake and potential options for the general framework of a nutrient management strategy. DWQ held the 8<sup>th</sup> stakeholder meeting on August 20, 2009 to continue the discussion of nutrient management strategy concepts with stakeholders and review the new timeline and other requirements for Falls Lake passed by the 2009 General Assembly. The 2009 regular session produced SB1020, a bill devoted to water quality improvements in Falls Lake. This bill revised the EMC adoption deadline for a Falls Lake strategy to January 15, 2011 and added certain requirements aimed at water quality improvement in the watershed. The bill was ratified and presented for the Governor's signature Aug. 11, 2009.

On September 9, 2009 an update of the Falls Lake process was provided to the EMC's Water Quality Committee. Additional updates will be provided to the EMC in November and January. In September 2009 the Falls Lake Stakeholder group broke into four smaller subcommittee groups to continue work on detailed rule concepts and draft language for the different sources of nutrients to the lake. The New Development Stormwater Subcommittee and the Point Source Subcommittee met on September 17 and 21, respectively. Subcommittee meetings for Existing Development and Agriculture are

planned for the beginning of October. Each of these subcommittees will meet three to four times between September 2009 and November 2009 with the goal of developing draft rules to present to the full stakeholder group in late December or early January. Our present schedule for EMC action is as follows:

- November, 2009 and January 2010 EMC meetings - staff reports to the EMC.
- March 2010 EMC meeting- draft rule package to EMC
- March to September - public comment period, public hearings, hearing officer meetings and draft report.
- September 2010 EMC meeting - hearing officer report and recommendation to EMC.

#### **Jordan Reservoir - Section 4 of Session Law 2005-190**

The EMC is required to report its progress in developing and implementing nutrient management strategies for the B. Everett Jordan Reservoir. The following is an update on that progress.

All of the Jordan rules that had been adopted by the EMC and approved by the RRC, were affected by legislation of the 2009 General Assembly. Ultimately, two laws were enacted directly addressing Jordan rules. The first, SL 2009-216 effective June 30, 2009, affects two of the RRC-approved Jordan set. It disapproves the Existing Development Stormwater rule in favor of an alternative lake water quality-based conditional trigger for local government implementation of nutrient-reducing measures on developed lands within cost and benefit limits. The Upper New Hope subwatershed may face additional measures if standards are not met in that arm of the lake by 2023. The session law also shifts the nitrogen compliance date for dischargers under the wastewater rule from 2014 to 2016. The second law, SL 2009-484 effective August 11, 2009, makes discrete modifications to parts of three other Jordan rules. Onsite stormwater treatment requirements are modified in the New Development Stormwater rule, existing development requirements paralleling those in SL 2009-216 replace requirements in the State and Federal Entities Stormwater rule, and two clarifications are made to the Riparian Buffer Protection rule. The bill also requires the EMC to adopt these provisions into the Jordan rules at which point both of the session laws will sunset.

The remaining eight Jordan rules not modified during the session became effective August 11, 2009. Division of Water Quality staff began implementation and outreach activities immediately. The EMC approved a model local buffer ordinance at its September meeting, staff held an agriculture orientation meeting in September and will hold two open meetings geared to local governments and others the first week of October.

## **II: EMC Rulemaking Actions**

- Approved the request to proceed to Public Hearing on Amendments to Fugitive Dust Rule.
- Approved the Hearing Officer's Report on Adoption of Heavy Duty Vehicle Idle Restrictions.
- Approved Revisions to the Well Construction Rules, 15A NCAC 2C .0100.
- Approved the Reclassification of a Haw River Segment in Chatham County (Cape Fear River Basin) as Critical Area (CA) for Pittsboro's WS-IV Water Supply Intake.
- Approved the Reclassifications of Big Laurel Creek and Spring Creek in Madison County (French Broad River Basin) to Class Outstanding Resource Waters (ORW).
- Approved the request to proceed to Public Hearing for High Quality Waters (HQW) Reclassification of Catawba Headwaters.
- Approved the request to proceed to Public Hearing for Outstanding Resource Waters (ORW) Reclassification of North Fork New River Watershed.
- Approved the Hearing Officers' Recommendations on Groundwater Standards Triennial Review Rule Revisions.
- Approved the request to proceed to Public Hearing on Amendments to Acceptable Ambient Level for Acrylonitrile.
- Approved the request to proceed to Public Hearing on Amendments to the NO<sub>x</sub> Applicability Rules.
- Approved the request to proceed to Public Hearing on the Revised Lead Ambient Standard.

## **III: Other EMC Actions**

- Approved the Neuse River Basinwide Water Quality Plan.
- Approved the Model Local Riparian Buffer Protection Ordinance under 15A NCAC 02B .0267, Jordan Lake Management Strategy.