



## ENVIRONMENTAL MANAGEMENT COMMISSION

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July 15, 2012

TO: ENVIRONMENTAL REVIEW COMMISSION  
Commission Counsel Jeff Hudson  
Commission Counsel Jennifer McGinnis

FROM: Stephen T. Smith, Chair, Environmental Management Commission

RE: EMC Quarterly Report

Enclosed please find the quarterly report of the Environmental Management Commission on its operations, activities, programs and progress for the period March 1, 2012 to May 31, 2012.

Attachment

cc: Robin Smith, Assistant Secretary for Environment, NCDENR  
Chuck Wakild, Director, DWQ, NCDENR  
Dexter Matthews, Director, DWM, NCDENR  
Sheila Holman, Director, DAQ, NCDENR  
Kari Barsness, Director, LIA, NCDENR  
Mariah Matheson, Research Division, NC General Assembly  
Claire Hester, Fiscal Research Division, NC General Assembly

**NORTH CAROLINA  
ENVIRONMENTAL MANAGEMENT COMMISSION  
QUARTERLY REPORT TO THE ENVIRONMENTAL REVIEW COMMISSION**

Covering the period March 1, 2012 to May 31, 2012

Per the requirements of G.S. 143B-282(b), the Environmental Management Commission (EMC) is submitting this quarterly report covering the period of March 1, 2012 to May 31, 2012 on the EMC's operations, activities, programs and progress.

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

Nutrient Control Criteria – Section 2(b)

Per Section 2(b), the EMC continues to assess and identify nutrient control strategies and criteria necessary to prevent excess nutrient loading in each drinking water supply reservoir. The EMC is currently considering modifications to the chlorophyll-a surface water quality standard. The Division of Water Quality (DWQ) and the EMC hosted a forum on nutrient enrichment on May 29<sup>th</sup> and 30<sup>th</sup> to provide state and local leaders, managers, and planners with a review of the science, regulatory issues, economic considerations, and other policy issues related to nutrient over-enrichment and options for avoiding impairment to our surface waters. A report on these proceedings will be available by October 2012.

Falls Lake - Section 3

The EMC is required to report its progress in assessing, identifying and adopting nutrient control strategies necessary to prevent excess nutrient loading in the Falls Lake water supply reservoir. Following an extensive stakeholder and rule-making process, permanent rules went into effect on January 15, 2011. Major actions are to be initiated over a 10-year first stage of implementation, with potential adaptive requirements under a second stage. Noteworthy groundwork occurred this quarter with the DWQ staff taking recommendations for agricultural accounting methods developed by the Falls Watershed Oversight Committee, which assists in implementing the Agriculture rule, to the EMC for approval in March. Staff with the Division of Soil and Water Conservation and DWQ also held two additional monthly meetings with the Watershed Oversight Committee (WOC) to continue working on the development of local advisory committee strategies which are due to the WOC in July 2012. Staff also met with NCDOT in April and May to collaborate on a nutrient accounting framework for stormwater nutrient loading from new and existing NCDOT development that will be presented to the EMC for approval in July 2012.

Jordan Lake - Section 4 of Session Law 2005-190

Section 4 requires the EMC to report on progress toward developing and implementing a nutrient management strategy for reservoirs including Jordan Lake. The final set of Jordan Lake rules went into effect in August 2009. Timeframes for most new actions under the rules fall within nine years of the effective date of the rules. Actions taken this quarter to support implementation are described below.

The Nutrient Scientific Advisory Board, which assists in implementing existing development stormwater requirements, held three meetings. The Board is developing a set of best management practices and accounting recommendations to be presented to the secretary of DENR in July 2012. The Board is also assisting DWQ in assigning existing development load reduction goals to the jurisdictions and state and federal entities in the watershed by 2014. DWQ reviewed local government new development stormwater programs that were submitted to DWQ in September, and provided recommendations to the EMC at its May 2012 meeting. The EMC approved 32 programs, and required revisions to one. Implementation of the programs will occur between the summer and end of the year. Soil and Water Conservation districts continue to collect data for agriculture accounting in the watershed. The Jordan Watershed Oversight Committee, which administers requirements of the Jordan agriculture rule, will present accounting findings to the WOC in September 2012. DWQ has been working with the NC Cooperative Extension Service on outreach for fertilizer management training that began in November 2011 and will continue through August 2012.

**II. EMC Rulemaking Approvals**

Approved Hearing Officers' Report on Revision to the Injection Well Rules (15A NCAC 02C .0200)

The North Carolina Well Construction Act (G.S. 87, Article 7) authorizes the EMC to adopt rules governing the location, construction, repair, and abandonment of wells for the protection of public health and the groundwater resources of the State. The well construction rules in 15A NCAC 02C .0200 establish minimum construction standards plus permitting and reporting requirements for wells used for injection, recharge, or disposal, which were last amended in 1997. Several revisions were made to provide clarifications, address new injection well uses and construction materials, to meet minimum federal requirements, and to reduce the regulatory burden for certain types of injection wells that pose little risk to public health and groundwater resources.

Approved Hearing Officers' Report on Permanent Rule Amendment to Defer Carbon Dioxide Emissions from Biomass from Prevention of Significant Deterioration Requirements (496)

In May, as follow-up to the temporary amendment adopted in November 2011, the EMC approved the hearing report and adopted a permanent rule amendment to 15A NCAC 02D .0544, Prevention of Significant Deterioration for Greenhouse Gases, to defer carbon dioxide (CO<sub>2</sub>) emissions from bioenergy and other biogenic sources from consideration for prevention of significant deterioration (PSD) permitting purposes for a period of three years. The amendment ensures that stationary sources would not have to unnecessarily complete a best available control technology (BACT) analysis for biogenic CO<sub>2</sub> nor be unnecessarily required to install equipment to control emissions during the three year deferral while USEPA completes its science and technical review of the issue of accounting for the net atmospheric impact of biogenic CO<sub>2</sub> emissions. The amendment to the state rule reflects the federal deferral of such emissions in the state PSD program.

Approved the Reclassification of the Neuse River and Associated Quarry in Johnston County (Neuse River Basin) to Class WS-IV

Johnston County requested that portions of the Neuse River and an abandoned quarry within Johnston County be reclassified. The quarry is to receive water from a proposed Neuse River intake, and is to be reclassified to Water Supply-IV (WS-IV) with a Critical Area (CA). The subject portions of the Neuse River are to be reclassified to WS-IV with a CA and WS-IV with a Protected Area (PA). The reclassification is needed to construct the public water supply intake and utilize the quarry's water as a public water supply, in order to meet water demands projected through 2050. A public hearing was held in December 2011 in Princeton, NC. The proposed effective date for this reclassification is July 1, 2012.

### III. Other EMC Actions

#### Approved Request to Proceed to Public Hearing with the Proposed Reclassification of a Segment of the Roanoke River along the Bertie County/Martin County Line to Class WS-IV Critical Area (CA) and WS-IV (Protected Area or PA)

Martin County Regional Water and Sewer Authority requested that a Roanoke River segment be reclassified from Class C to Class WS-IV CA and WS-IV (PA) in order to construct a public water supply intake. This new water supply source will allow Martin County and the Town of Williamston to meet requirements of the Central Coastal Plain Capacity Use Area (CCPCUA) rule and meet water demands through 2030. To receive necessary American Recovery and Reinvestment Act of 2009 (ARRA) funding, the proposed 2.0 mgd water treatment plant for this project must be able to operate by September 2015. Thus, the Authority requested that the proposal become effective by early 2013, and the proposed effective date for this reclassification is January 1, 2013.

#### Approved the Fiscal Analysis of Proposed Changes to Groundwater Rules 15A NCAC 2L .0202 and .0113

The EMC approved the economic analysis of proposed changes to North Carolina's Groundwater Rules, which are codified in 15A NCAC 02L .0202 and .0113 and were last amended January, 2010. The proposed revisions consist of an amendment to the 1,1-dichloroethylene standard in 2L .0202(g)(59) from 7 ug/L to 350 ug/L, changes to .0202(d) & (f) to allow flexibility in the implementation of the (d)(5) maximum contaminant level criteria and changes to the .0113 variance requirements. Results from the public hearing held May 23, 2012 and the hearing officer's recommendation will be presented to the EMC at its September meeting.

#### Approved the Fiscal Analysis of Proposed Changes to Rulemaking Petition Rules 15A NCAC 2I .0501

The EMC approved the fiscal analysis of proposed changes to Rulemaking Petition Requirements codified in 15A NCAC 02I .0501. The proposed revisions amend 2I .0501 (a) to require a copy of the petition to be submitted in an electronic or digital format and amend 2I .0501(c) to delete the requirement to submit 20 paper copies when the petition exceeds ten pages. Written comments on this proposal are being accepted through July 2, 2012.

#### Approved Recommendation to Appoint Four Members to the Water Pollution Control System Operators Certification Commission (WPCSOCC)

The following appointments were made to the WPCSOCC. Troy Perkins, representing Collections Systems, was appointed for a third term. Members appointed for a second term were Marchell Adams-David, Town Manager for Hamlet, representing small municipalities less than 10,000 population; Tim Bannister, representing Contract Wastewater Operators; and Dr. David L. Lindbo, representing University System Faculty. These three year terms will begin July 1, 2012 and end June 30, 2015.

#### Approved Request to Proceed to Hearing on Clarification of 02Q .0102 Permitting Exemption (509)

At its May meeting the EMC approved proceeding to hearing on a minor clarification of air permit exemption language to avoid potential misreading. The Division of Air Quality (DAQ) identified the need for clarification regarding the interaction of broadly applicable rules regarding sources that are exempt from the general requirement to obtain an air quality permit with the air toxics rule specific exemptions. 15A NCAC 02Q .0102, Exemptions (General Provisions), specifies which activities are exempt from the requirement to obtain an air quality permit. 15A NCAC 02Q .0702, Exemptions (Toxic Air Pollutant Procedures), specifies activities which are exempt from the requirement to obtain a permit to emit toxic air pollutants (TAP) and not required to be included in TAP demonstrations. The EMC has previously determined through rulemaking that many of the activities currently exempt from the general requirement to obtain a permit under 02Q .0102(c) should also be exempt from air toxics demonstration and permitting requirements as identified in 02Q .0702(a)(1)-(24). Existing language in 02Q .0102(b)(7) needs to be clarified to reflect this interaction relative to smaller sources so that it is clear that small sources that are already not required to be included in an air toxics demonstration or permit also retain the general exemption from having to obtain an air quality permit in general. The proposed rule change conforms to the principles of Executive Order 70 by reducing potential burden on the regulated community and making the rule language easier to understand.

#### Approved the Final Roanoke River Basinwide Water Quality Plan

The Commission approved the Roanoke River Basin Plan which was developed per G.S. 143-215.8B to guide DWQ's actions in the Roanoke River Basin over the next five years and beyond utilizing existing rules and policies.

#### Approved Request to Proceed to Public Hearing with the Proposed Reclassification of Segments of Maiden and Allen Creeks in Catawba and Lincoln Counties (Catawba River Basin) to Class WS-V

The Town of Maiden requested that two portions of Maiden Creek and two portions of Allen Creek be reclassified from WS-II Critical Area (CA) High Quality Waters (HQW) and WS-II (Balance of Watershed or BW) HQW to WS-V. Because these waters are no longer used as public water supplies, this reclassification will result in an updated, accurate representation of these waters' current uses, and thus, this proposal serves the public interest per Executive Order #70 and Session Law 2011-398. The public hearing is not yet scheduled. The proposed effective date for this reclassification is March 1, 2013.

#### Approved Request for Approval of Local Programs Implementing the Jordan Lake New Development Stormwater Rule, and Delegation of Further Approval Authority to the Director

The EMC approved 32 programs, and required revisions to one (Pittsboro). Pittsboro will have two months to resubmit a program for staff's review, and staff will provide recommendations to the Commission within two months of that submission. Therefore, Pittsboro's program should come before the Commission again at its September meeting. In addition, the Director was given authority to approve any subsequent program amendments that these approved communities may propose from time to time. The Director would forward unique future program revisions of concern to the Water Quality Committee for review. As specified in their ordinances, local programs will begin implementing the new development requirements immediately following ordinance adoption, with adoption dates scheduled during August 2012.

July 15, 2012



Stephen T. Smith  
Chair, Environmental Management Commission