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April 15, 2011

TO: ENVIRONMENTAL REVIEW COMMISSION  
Jeff Hudson, Commission Counsel, Environmental Review Commission

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 January 1, 2011 to March 31, 2011.

*Stephen T. Smith*

Attachment

cc: Robin Smith, Assistant Secretary for Environment, NCDENR  
Coleen Sullins, 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



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

Covering the period January 1, 2011 to March 31, 2011

Per the requirements of G.S. 143B-282(b), the Environmental Management Commission (EMC) is submitting this quarterly report covering the period of January 1, 2011 to March 31, 2011 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 and in early 2012 will be hosting a forum addressing nutrient control issues.

### Falls Lake - Section 3

The EMC is required to report its progress in assessing, identifying, and adopting nutrient control strategies and criteria necessary to prevent excess nutrient loading in the Falls Lake water supply reservoir. The following is an update on that progress. Following an extensive stakeholder and rule-making process, the permanent rules went into effect on January 15, 2011. Stakeholder meetings were held during January to get additional input on the model stormwater program required by the new rules. On January 27, 2011, Division of Water Quality (DWQ) staff, in collaboration with the Upper Neuse River Basin Association, met with the Falls Lake local governments and other interested stakeholders to review and accept input on the draft Falls Lake new development stormwater model program. On March 1, 2011, DWQ participated in a meeting with the Land Planning Committee of the Durham, Orange, and Chatham Counties Home Builder's Association to provide an overview of the recently approved Falls Lake new development stormwater rule and to answer homebuilder questions about rule implementation. At its March 10, 2011 meeting, the EMC approved DWQ's Falls Lake model program for new development stormwater, including a new nutrient accounting tool and a model ordinance. Local governments now have until August 2011 to develop and submit their local programs for EMC approval. On March 15, 2011, DWQ sent letters to the NPDES permitted wastewater treatment plants located in the Falls Lake watershed notifying them of their Stage I waste load allocations to be met by calendar year 2016.

### Jordan Lake - Section 4 of Session Law 2005-190

Section 4 requires the EMC to report on the progress of developing and implementing a nutrient management strategy for reservoirs including Jordan Lake. The Jordan Lake rules became effective August 11, 2009.

The DWQ continues to implement the initial requirements of the Jordan rules. The EMC approved the remaining 3 of 32 local Jordan Buffer Programs at its January meeting, and these local governments had two months to begin implementing the programs. At its March meeting, the EMC approved the Division's model program for new development stormwater, including a new nutrient accounting tool and a model ordinance. Local governments now have until September 2011 to develop and submit their local programs for EMC approval. The Nutrient Scientific Advisory Board, which will assist in implementing existing development stormwater requirements, held three monthly meetings during this quarter to assist with development of the July 2012 report of findings. The Watershed Oversight Committee, which administers requirements of the Jordan agriculture rule, held three meetings during this quarter and continues to meet to develop accounting processes to assess agriculture compliance by August 2012.

## **II. EMC Rulemaking Approvals**

### Reclassification of a Southwest Creek Segment in Onslow County (White Oak River Basin) to Class SC

The EMC approved reclassification of a portion of Southwest Creek from approximately 0.5 mile upstream of Mill Run to the New River; about 2 miles of the creek. The rule change was necessary to reflect the saltwater nature of these waters and prevent incorrect surface water quality standards from being used in permitting and use assessment. This reclassification prevents this portion of Southwest Creek from being incorrectly rated as impaired.



### Revisions to the Pretreatment Programs Rule (15A NCAC 2H .0900)

The revisions to the rules were made to make them consistent with Federal regulations, allowing publically owned treatment works (POTWs) access to all the EPA streamlining options and making some needed clarifications and corrections.

### Rule amendments and Rule Adoptions in Accordance with Session Law (S.L.) 2006-246 (Phase 2 Stormwater Rules) and 2008-211 (Coastal Stormwater Rules)

The revisions incorporated the stormwater requirements of S.L. 2006-246 (Phase II) and S.L. 2008-211 (Coastal Stormwater) into the EMC Rules. In accordance with the Session Laws, the rules are substantively identical to the provisions of the Session Laws, and have been reorganized and renumbered as necessary. The consolidation was done to provide ease of access to the requirements for all parties.

### **III. Other EMC Actions**

#### Approval of Mecklenburg County's Local Rule regarding Hospital Medical and Infectious Waste Incinerator

On November 16, 2010, the Mecklenburg County Board of Commissioners held a public hearing and unanimously adopted amendments to the Mecklenburg County Air Pollution Control Ordinance (MCAPCO). The ordinance (MCAPCO Regulation 2.1206 "Hospital, Medical and Infectious Waste Incinerators"), as adopted, details the emission standards/ limits, and testing, monitoring, recordkeeping, and reporting requirements for hospital, medical and infectious waste incinerators in Mecklenburg County, per 40 CFR 60 Subpart Ce – "Emission Guidelines and Compliance Times for Hospital/ Medical/Infectious Waste Incinerators" The Mecklenburg County revision to 2.1206 requires a hospital medical and infectious waste incinerator to be in compliance with EPA's revised requirements by October 6, 2012.

#### Approved request to proceed to Public Hearing on Amendments to Ambient Standards for Nitrogen Dioxide (NO2)

15A NCAC 02D .0407, Nitrogen Dioxide, was amended to reflect changes to the National Ambient Air Quality Standard (NAAQS) for nitrogen dioxide. EPA modified the NAAQS for nitrogen dioxide on January 22, 2010.

#### Approved request to proceed to Public Hearing on Amendments to Ambient Standards for Sulfur Dioxide (SO2)

15A NCAC 02D .0402, Sulfur Oxides, was amended to reflect changes to the NAAQS for sulfur dioxide (SO2). EPA modified the primary NAAQS for SO2 on June 2, 2010.

#### Approved the Final Tar-Pamlico River Basinwide Water Quality Plan

The Tar-Pamlico Basinwide Water Quality Plan was developed per GS 143-215.8B to guide the Division's actions in the Tar-Pamlico River Basin over the next five years and beyond, utilizing existing rules and policies. The Commission approved the management actions set forth in this plan.

#### Approved the Model Programs for New Development Stormwater under Jordan and Falls Nutrient Strategies

The Jordan and Falls Lake nutrient rules went into effect on August 11, 2009 and January 15, 2011, respectively. Each includes a New Development Stormwater rule requiring local governments to implement local stormwater programs that require new development projects to meet nitrogen and phosphorus export targets to satisfy the specific nutrient strategy percent goals. The approved model programs will assist the local governments in implementing these requirements.

#### Approved request to proceed to Public Notice to Reclassify a French Broad River Segment as Critical Area "CA", for Hendersonville's WS-IV Water Supply Intake

The City of Henderson requested that a segment of the French Broad in Henderson County be reclassified to WS-IV CA to allow its use as an emergency water supply.

#### Approved revised Jordan Lake Local Buffer Programs for Alamance County, Morrisville, and Orange County

In September, the EMC reviewed 32 local buffer program ordinances and out of those requested the Alamance County, Morrisville and Orange County make revisions as their ordinances were not as stringent as required by the Jordan Lake buffer rules. Those revisions were made and approved by the Commission.

#### Approved Delegation of the Neuse Buffer Program to the Town of Morrisville

The City of Morrisville requested delegation of the Neuse Buffer Rules (15A NCAC 2B .0233 and .0242) which govern protection and maintenance of existing riparian buffers and the mitigation program for those buffers.

April 15, 2011

Stephen T. Smith  
Chair, N.C. Environmental Management Commission

