



ENVIRONMENTAL MANAGEMENT COMMISSION

NORTH CAROLINA
DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES

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February 28, 2011

TO: ENVIRONMENTAL REVIEW COMMISSION
The Honorable Pricey Harrison, Co-Chair, Environmental Review Commission
The Honorable Pryor Gibson, Co-Chair, Environmental Review Commission
The Honorable Bob Atwater, Co-Chair, Environmental Review Commission
The Honorable Dan Clodfelter, Co-Chair, Environmental Review Commission

FROM: Stephen T. Smith, Chair Environmental Management Commission

A handwritten signature in black ink, appearing to read "S. Smith".

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 October 1, 2011 to December 31, 2010.

Attachment

cc: Coleen Sullins, Director, DWQ

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

Covering the period October 1, 2010 to December 31, 2010

Per the requirements of G.S. 143B-282(b), the Environmental Management Commission (EMC) is submitting this quarterly report covering the period of October 1, 2010 to December 31, 2010 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. In March 2010, the EMC approved taking proposed modifications to the State's chlorophyll-a standard out for public hearing and comment as part of the Federal Clean Water Act required Triennial Review of Surface Water Quality Standards. Per the NC Administrative Procedures Act, a fiscal note is being developed. Public comment on the impact of the rule changes for use in the fiscal note closed September 7, 2010. Public hearings will be held upon completion of the fiscal note.

The Water Quality Committee (WQC) of the EMC also considered proposed rules that would implement proactive nitrogen and phosphorus controls for point and nonpoint sources to protect waters that exhibit the potential to exceed the chlorophyll-a standard. Several questions arose during the discussion of the proposed rules. The WQC deferred rulemaking and agreed to holding a forum that would compile the most recent scientific, economic and policy development information available on this complex issue. The forum is being planned for late 2011/early 2012.

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 EMC approved the revised final Falls Lake Rules at their November 2010 meeting. The Rules Review Commission approved the final rules at their December 18, 2010 meeting. No letters of objection were received by the RRC. 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. In March, the EMC will review the Falls Lake model stormwater program for approval.

Jordan Reservoir - Section 4 of Session Law 2005-190

Under this section, no new or increased nutrient loading allocation is allowed in the Jordan Reservoir watershed until a nutrient management strategy based on a calibrated nutrient response model is adopted into rules. The Jordan rules were adopted by the EMC and approved by the RRC in 2008. The 2009 General Assembly then approved eight of the rules and revised or replaced the other five rules. All of the rules were effective by August 11, 2009.

The Division of Water Quality continues to implement the initial requirements of the Jordan rules and perform outreach activities. At its September meeting, the Water Quality Committee of the EMC disapproved 3 of 32 local Jordan buffer programs. Those programs have been revised and the Water Quality Committee will act on them at the January 2011 meeting.

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 Division began developing a model new development program and continued to work with contractors developing a new accounting method and a model ordinance. A meeting was held with affected local governments to discuss the development of the new development model program. The EMC will review and act on the model program at the March 2011 meeting. The Watershed Oversight Committee, which administers requirements of the Jordan agriculture rule, has held one meeting and continues to meet to develop accounting processes to assess agriculture compliance by August 2012.

II. EMC Rulemaking Approvals

- Amendments on Hospital, Medical, Infectious Waste Incinerator Rules

Rule 15A NCAC 02D .1206, Hospital, Medical, and Infectious Waste Incinerators, was amended to reflect the new federal emission limits, operating procedure requirements, recordkeeping and reporting requirements for the three North Carolina incinerators applicable to this Rule. Any new hospital, medical infectious waste incinerator will not be subject to this Rule; they will instead be required to meet all New Source Performance Standards (NSPS) found in 40 CFR Part 60. The EMC adopted a compliance date of July 1, 2013, compared to the federal rule's October 6, 2014 compliance date.

- Adoption of Prevention of Significant Deterioration (PSD) Requirements to Incorporate Greenhouse Gas (GHG) Tailoring Provisions

Rule 15A NCAC 02D .0544 was adopted to avoid unnecessary burden on the regulated community and the permitting agency which otherwise would stem from the interplay of recently amended federal regulations with existing state regulations. Absent this state rule change numerous additional emitting sources would be required to seek permits under the PSD program creating an unnecessary burden on the regulated community and overwhelming the permitting agencies.

- Amendments to Prevention of Significant Deterioration (PSD) and Nonattainment New Source Review (NA NSR) Rules to Include PM2.5

Amendments to New Source Review program Rules 15A NCAC 02D .0530, Prevention of Significant Deterioration, and .0531, Sources in Nonattainment Areas, set the significant level (used to determine if a proposed project is a major modification requiring a permit) for the PM2.5 precursor NOx in North Carolina to 140 tpy instead of 40 tpy as listed in the federal emissions guidance document. The significance rate is based upon the fact that monitoring and modeling data demonstrates NOx to be a lesser contributor to the formation of PM2.5 than SO2 by a factor of 3.5 in North Carolina. The amendments also included technically modified rule language to better reflect USEPA's language structure regarding notification of Federal Land Managers of PSD permit applications.

- Amendments of Reclaimed Waters Rule

General Statute 143-355.5 directs the Commission to encourage and promote safe and beneficial reuse of treated wastewater as an alternative to surface water dischargers and specifically directs the Commission to adopt the rules that identify acceptable uses of reclaimed water, facilitate permitting and establish standards that are specific to the intended uses of the reclaimed water. These modifications to 15A NCAC 02U, 02T.0113, 02T .0506 and 02T .0901-.0915 provide appropriate protection of public health and the environment and increased flexibility that facilitates the safe use of reclaimed water.

- Adoption of Nutrient Rules for Falls Reservoir (see I. Nutrient Control Strategies on previous page)

III. Other EMC Actions

- Approved the Interbasin Transfer Certificate for Greenville Utilities Commission, Town of Farmville, Town of Winterville, and Green County

The certificate allows the transfer 8.3 million gallons per day (MGD) of surface water from the Tar River Basin to the Contentnea Creek Basin (a sub-watershed of the Neuse River Basin) and up to 4.0 MGD from the Tar River Basin to the Neuse River Basin; and grants the petitioners the ability to transfer an additional 1 MGD in an emergency from the Tar to the Contentnea and an additional 200,000 gallons per day in an emergency from the Tar to the Neuse.

February 10, 2011

Stephen T. Smith
Chair

N.C. Environmental Management Commission

