



## ENVIRONMENTAL MANAGEMENT COMMISSION

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April 1, 2015

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

FROM: Gerard P. Carroll, Chair, Environmental Management Commission

RE: EMC Quarterly Report

As required by G.S. 143B-282(b), the Environmental Management Commission is submitting a quarterly report on its operations, activities, programs and progress for the period December 1, 2014 to February 28, 2015.

Attachment

cc: Tom Reeder, Assistant Secretary for Environment, NCDENR  
Jay Zimmerman, Director, DWR, NCDENR  
Linda Culpepper, Director, DWM, NCDENR  
Sheila Holman, Director, DAQ, NCDENR  
Matthew T. Dockham, Director, LIA, NCDENR  
Mariah Matheson, Research Division, NC General Assembly

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

Covering the period December 1, 2014 to February 28, 2015

Per the requirements of G.S. 143B-282(b), the Environmental Management Commission (EMC) is submitting this quarterly report covering the period of December 1, 2014 to February 28, 2015 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 S.L. 2006-259 and S.L. 2009-486)**

**Nutrient Control Criteria – Section 2(b)**

The U.S. Environmental Protection Agency (EPA) requires all states to develop and implement a Nutrient Criteria Development Plan (NCDP) to protect the uses of a waterbody from the effects of excess nutrients. The Division of Water Resources (DWR) and the EPA agreed on the NCDP for North Carolina in June 2014. In January 2015, DWR staff updated the EMC Water Quality Committee on the DWR's progress in implementing the NCDP. The NCDP calls for the establishment of a Scientific Advisory Council (SAC) to advise DWR on establishing nutrient criteria. The formation of the SAC was completed in February 2015. A Criteria Implementation Committee (CIC) is also being formed to advise DWR on nutrient criteria implementation challenges and costs. Nominations for the CIC are being solicited between February 19 and March 13, 2015.

**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. Staff completed draft revisions to the full set of Jordan rules as part of the legislatively mandated rules re-adoption process. Staff attended two Upper Neuse River Basin Association (UNRBA) meetings for updates on work being done on 10 additional existing development nutrient reducing measures, which are being evaluated by UNRBA's contractor for credit development. Staff met with a core stakeholder group in February put together by Tetra Tech as part of their EPA technical assistance contract work with the division to develop an accounting program for remedying malfunctioning septic systems. Staff also made final revisions to a new version of the stormwater nutrient accounting tool used to estimate nutrient loading from development and reductions by best management practices (BMPs). The tool will now go through beta-testing with members of the Nutrient Scientific Advisory Board. Staff also evaluated an informal proposal for a potential nutrient offset credit generating technique that would process chicken litter through a waste-to-energy technology.

**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. Since then, there have been eight session laws that have revised and delayed the rules. Timeframes for most new actions under the rules now fall within 12 years of the effective date of the rules. Staff completed draft revisions to the full set of Jordan rules as part of the legislatively mandated rules re-adoption process. Staff also made final revisions to a new version of the stormwater nutrient accounting tool used to estimate nutrient loading from development and reductions by BMPs. The tool will now go through beta-testing with members of the Nutrient Scientific Advisory Board. Staff also evaluated an informal proposal for a potential nutrient offset credit generating technique that would process chicken litter through a waste-to-energy technology.

**II. EMC Rulemaking Approvals**

**Approved modifications on the stormwater oil and gas rule – 15A NCAC 2H .1030 to address RRC objections**

At its November 2014 meeting, the EMC adopted a set of rules to establish requirements for the oil and gas exploration and production industry in North Carolina. These rules included changes to parts of the Commission's groundwater, land application and stormwater rules. The adopted rules were reviewed by the RRC at its December 17, 2014 meeting. The RRC approved all of the EMC rules with the exception of the stormwater rule (2H .1030). The RRC objected to this rule on the grounds that one portion of the adopted rule differed substantially from the rule language that was taken to public notice. The EMC addressed the objection by modifying the previously adopted rule to remove the added language and go back to the language that was taken out to public notice.

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

#### **Approved rules review report to the Rules Review Commission for subchapter 02R in accordance with S.L. 2013-413 (HB74)**

In accordance with General Statute 150B-21.3A, the EMC made an initial determination of “necessary with substantive public interest” for the 10 rules in 15A NCAC 02R. A comment period was held from July 11, 2014 to September 17, 2014 to accept comments on the initial determinations. The EMC approved submission of the final report to the Rules Review Commission (RRC) for their review.

#### **Approved rules review report to Rules Review Commission for subchapter 02S in accordance with S.L. 2013-413 (HB74)**

In accordance with General Statute 150B-21.3A, the EMC made an initial determination for 15A NCAC 02S rules with 12 of the 16 rules proposed as “necessary with substantive public interest”, and the remaining four proposed as “necessary without substantive public interest.” A comment period was held from July 11, 2014 through September 17, 2014 to accept comments on these initial determinations. The EMC approved submission of the final report to the RRC for their review.

#### **Approved request to proceed to public hearing with 15A NCAC 02B .0295 (Consolidated Buffer Mitigation Rule) and approved fiscal note addendum in accordance with NCGS 150B-19.1.**

Temporary Rule 15A NCAC 02B .0295 became effective on October 24, 2014 and will expire on August 14, 2015, unless the permanent rule adopted by the EMC to replace the temporary rule has been submitted to the RRC by that date. During RRC review of temporary rule 02B .0295, substantial changes to the text were requested by the RRC. Due to legislative mandates, many of the technical change requests were allowed to be delayed until permanent rule making. The proposed permanent rule incorporates text changes as suggested by RRC review, as well as text changes that provide clarification in areas noted by staff. In addition, the rule has been reorganized to provide further clarity. In accordance with G.S. 150B-21.4 and with E.O. 70 from October 21, 2010 as amended by E.O. 48 from April 9, 2014, OSBM has reviewed and, on November 4, 2014, approved a DENR Addendum to the original Buffer Mitigation Fiscal Note, October 12, 2012. The public hearing is scheduled for March 12, 2015.

#### **Confirmed recommendation to appoint new member to the Water Pollution Control System Operators Certification Commission**

The DENR Secretary appointed Mr. Arnold Eugene Allred to the Water Pollution Control System Operators Certification Commission. Mr. Allred is currently employed by the town of Franklinville as the Utilities Director and Operator in Responsible Charge at the wastewater treatment facility. He satisfies the statutory requirement of a member employed by a N.C. municipality in the capacity of facility operator, superintendent, director or equivalent position. Mr. Allred has been employed in the wastewater industry for more than 39 years, including experience with the city of Asheboro, the village of Alamance, Sapona Manufacturing and the town of Franklinville. Term of service began on January 9, 2015 and expires June 30, 2017.

#### **Approved an interim report on beneficial reuse of coal ash and other matters required under the coal ash management act**

Session Law 2014-122 Subsection 4.(d)(1) required a review of the beneficial use of coal combustion products (CCP) and the regulations with the report due to the ERC no later than January 15, 2015, on findings and recommendations regarding the use of coal combustion products as structural fill and for other beneficial uses. This interim report provided a comparison of regulations 15A NCAC 13B .1700 (13B) and 15A NCAC 02T .1200 (02T) with requirements established by Session Law 2014-122 and the new federal rule issued by the EPA on December 19, 2014. This report looked at use of CCP in structural fills and other beneficial uses currently in North Carolina. Further work is being done as required by Session Law 2014-122 on the evaluation of additional opportunities for the use of CCPs for other beneficial uses that would reduce the volume of coal combustion residuals that are being disposed of in landfills, while still being protective of public health, safety and welfare; the environment; and natural resources. A final report will be issued by April 30, 2015.

**April 1, 2015**



**Gerard P. Carroll**  
**Chair, Environmental Management Commission**