



# ENVIRONMENTAL MANAGEMENT COMMISSION

NORTH CAROLINA  
DEPARTMENT OF ENVIRONMENTAL QUALITY

Gerard P. Carroll  
Chairman  
Kevin C. Martin  
Vice Chairman

Pat McCrory Governor  
Donald R. van der Vaart, Secretary

David Anderson  
Charles Carter  
Tommy Craven  
Daniel E. Dawson  
Charles Elam  
E.O. Ferrell

Manning W. Puette  
Dr. Lawrence Raymond  
Dr. Albert R. Rubin  
Clyde Smith Jr.  
John D. Solomon  
Steve W. Tedder  
Julie A. Wilsey

October 19, 2015

TO: ENVIRONMENTAL REVIEW COMMISSION  
The Honorable Mike Hager, Co-Chairman  
The Honorable Brent Jackson, Co-Chairman

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 June 1, 2015 to August 31, 2015.

Attachment

cc: Tom Reeder, Assistant Secretary for Environment, NCDEQ  
Jay Zimmerman, Director of Water Resources, NCDEQ  
Linda Culpepper, Director of Waste Management, NCDEQ  
Sheila Holman, Director of Air Quality, NCDEQ  
Matthew Dockham, Director of Legislative and Intergovernmental Affairs, NCDEW  
Mariah Matheson, Committee Assistant, NCGA  
Jeffrey Hudson, Commission Council, NCGA  
Jennifer McGinnis, Commission Council, NCGA

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

Covering the period June 1, 2015 to August 31, 2015

Per the requirements of G.S. 143B-282(b), the Environmental Management Commission (EMC) is submitting this quarterly report covering the period of June 1, 2015 to August 31, 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 Nutrient Criteria Development Plans (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. The NCDP established two advisory committees to assist in the development and implementation of nutrient criteria. The Scientific Advisory Council (SAC) consists of 12 members representing a variety of backgrounds. The SAC has met in May, July and August and will have meetings in October and December 2015. The SAC is currently discussing relationships between the uses of a body of water, and indicators of whether those uses are being met. High Rock Lake is serving as the example. The Criteria Implementation Committee (CIC) was formed to address the challenges of implementing the nutrient criteria that may be recommended. The CIC consists of six members representing consultants, agriculture and stormwater. The CIC met in August and will be meeting in October.

**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 attended three 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 held two conference calls in with Tetra Tech as part of their EPA technical assistance contract work with the division to develop an accounting program for remedying malfunctioning septic systems and develop landscape attenuation factors. Staff also began making a second round of revisions to the Falls Lake rules based on feedback received at a May 19th stakeholder meeting with plans to bring the revised draft rules to the January 2016 meeting of the Water Quality Committee.

**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. During the June-to-August 2015 quarter;; staff completed additional revisions to a new version of the stormwater nutrient accounting tool used to estimate nutrient loading from development; staff held several meetings with Nutrient Scientific Advisory Board (NSAB) members on interpreting the results of a recently completed Jordan watershed model for purposes of establishing loading targets for local governments subject to Existing Development stormwater requirements; staff completed and submitted NSAB Fifth Annual Report to the Secretary; and staff completed a Draft *Stream Restoration Nutrient Credit Standards & Design Specifications* document.

**II. EMC Rulemaking Approvals**

**Approved permanent amendments to clarify applicability of prevention of significant deterioration (PSD) rule for greenhouse gases and Title V Applicability Rule**

On June 23, 2014, the United States Supreme Court issued a decision in *Utility Air Regulatory Group (UARG) v. Environmental Protection Agency (EPA)* addressing the application of stationary source permitting requirements to greenhouse gas (GHG) emissions. In its decision, the Supreme Court said that the EPA may not treat greenhouse gases as an air pollutant for the purposes of determining whether a source is a major source required to obtain a Prevention of

Significant Deterioration (PSD) or Title V permit. Temporary rule amendments to 15A NCAC 02D .0544, Prevention of Significant Deterioration Requirements for Greenhouse Gases, and 15A NCAC 02Q .0502, Applicability, reflecting that decision were adopted by the EMC and became effective on December 2, 2014. Per the Administrative Procedures Act a public hearing on the permanent rule amendments to replace the temporary amendments was held in Raleigh, North Carolina on June 9, 2015. The public comment period closed on June 15, 2015. One comment was received from the EPA Region 4 that the revisions to its rules appear consistent with the U.S. Supreme Court decision. The permanent rule amendments were approved by the EMC at its July 9, 2015 meeting, approved by the Rules Review Commission at its August 18, 2015 meeting, and became effective September 1, 2015.

#### **Approved revisions to reflect S.L. 2014-120 repeal of source reduction and recycling reporting requirement**

At the conclusion of the 2014 legislative session, the General Assembly enacted S.L. 2014-120, An Act to Provide Further Regulatory Relief to the Citizens of North Carolina by Providing for Various Administrative Reforms, by Eliminating Certain Unnecessary or Outdated Statutes and Regulations and Modernizing or Simplifying Cumbersome or Outdated Regulations and by Making Various Other Statutory Changes (Regulatory Reform Act of 2014). Section 38(c) of the Session Law repealed G.S. 143-215.108(g) which was the underlying requirement that sources submit a written description of their plans for source reduction and recycling. Rules 15A NCAC 02Q .0206, Payment of Fees, .0304, Applications, and .0507, Application, were proposed to be amended to reflect the session law repeal of the requirement. A public hearing was held in Raleigh, NC on June 9, 2015, to take public comments. The comment period closed June 15, 2015. No public comments were received during the comment period. The amendments were approved by the EMC at its July 9, 2015 meeting, approved by the Rules Review Commission at its August 18, 2015 meeting, and became effective September 1, 2015.

#### **Approved revision to ambient standard for particulate matter (PM<sub>2.5</sub>)**

On Dec. 14, 2012, EPA further strengthened the PM<sub>2.5</sub> (particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers) National Ambient Air Quality Standard (NAAQS) by revising the level of the annual arithmetic mean concentration from 15.0 µg/m<sup>3</sup> to 12.0 µg/m<sup>3</sup> while maintaining the current 24-hour average concentration of 35.0 µg/m<sup>3</sup>. The rule amendments update the state rule to reflect the current NAAQS value. State implementation plans (SIPs) demonstrating the state has the infrastructure in place to address attainment and maintenance of the NAAQS are required to be submitted to the EPA within three years of revision of the NAAQS. The amendments to 15A NCAC 02D .0410 are necessary to reflect the revised NAAQS for PM<sub>2.5</sub> in the state ambient air quality standards rule as part of that process. Based on the 2010 – 2012 and subsequent ambient monitoring data, all counties in North Carolina are below the 12 µg/m<sup>3</sup> national annual standard and the daily 35 µg/m<sup>3</sup> standard. On December 18, 2014, the EPA determined that no area within North Carolina violates the 2012 standard or contributes to a nearby violation of the standard and designated all counties in North Carolina unclassifiable/attainment for the 2012 PM<sub>2.5</sub> NAAQS as published in the Federal Register January 15, 2015 effective April 1, 2015. A public hearing was held in Raleigh, NC on June 9, 2015, to take public comments on the amendments to Rule 15A NCAC 02D .0410 to update the ambient standard for Particulate Matter (PM<sub>2.5</sub>). The public comment period closed on June 15, 2015. Only a letter from the EPA Region 4 noting that they had completed their preliminary review of the proposed amendments and had no comments was received. The amendments were approved by the EMC at its July 9, 2015 meeting, approved by the Rules Review Commission at its August 18, 2015 meeting, and became effective September 1, 2015.

#### **Approved adoption of 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 was approved by the Rules Review Commission (RRC) on October 16, 2014 and became effective on October 24, 2014. On January 7, 2015 the EMC authorized the DWR to proceed to public notice and hearing with the adoption of the Consolidated Buffer Mitigation Rule. The Division held a public hearing on March 12, 2015. 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 approved a June 2015 addendum to the original buffer mitigation fiscal note, October 12, 2012.

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

#### **Approved recommendation to reappoint members to the Water Pollution Control System Operators Certification Commission**

DENR Secretary Donald R. van der Vaart approved the following reappointments to the Water Pollution Control System Operators Certification Commission. Mr. Tim Bannister – TCW, Inc. – fulfilling the requirement of a member employed

by a commercial water pollution control system operating firm. Dr. David Lindbo – NC State University – fulfilling the requirement of a member who is faculty of a 4 year college or university and whose major field is related to wastewater treatment. Mr. Troy Perkins – Greenville Utilities Commission – fulfilling the requirement of a member currently employed as a water pollution control system collection operator, superintendent director or equivalent position with a NC municipality.

#### **Approved the 2014 Tar-Pamlico river basin water resources plan**

General Statute 143-215(b) and General Statute 143-355(m) mandates the development of a basinwide water quality management plan for each of the seventeen river basins in the state and a state water supply plan, respectively. Staff presented highlights from data included in the Tar-Pamlico River basin water resources plan developed in 2014. The 2014 plan is the fifth update of the Tar-Pamlico basin plan and the first to include both water quality and water quantity information.

#### **Approved the Tar-Pamlico phase IV agreement**

The phase IV agreement is the next iteration of a nutrient control agreement for point source discharges in the Tar-Pamlico River basin. The first phase of the agreement was initiated in 1990 in response to nutrient-driven water quality impairments in the Pamlico River estuary and its Nutrient Sensitive Water designation. The agreement launched and remains an important part of the overall Tar-Pamlico nutrient management strategy. It establishes the performance goals for the nutrient strategy of 30 percent reduction in nitrogen loading from a baseline year of 1991 and no increase in loading of phosphorus from that baseline. An association of point source dischargers, the Tar-Pamlico Basin Association, receives collective annual end-of-pipe nitrogen and phosphorus loading caps. In the event that either cap is exceeded, the Association will fund agricultural practices at a predetermined cost-effectiveness rate to offset those exceedances through the NC Agriculture Cost Share Program. Phase IV incorporates modifications negotiated during Phase III including updates to the Association membership and inclusion of individual load allocations in member's NPDES permits.

**October 15, 2015**



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