



North Carolina Department of Environment and Natural Resources

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December 4, 2014

**MEMORANDUM**

To: Environmental Management Commission - Water Quality Committee

From: Tracy E. Davis, P.E., CPM, Director   
Division of Energy, Mineral, and Land Resources

Subject: 2014 Annual Report on Water Supply Watershed Ordinance Approvals,  
USMP Ordinance Approvals, and Phase II Program Implementation Delegations

At their July 12<sup>th</sup>, 2007 meeting, the Environmental Management Commission delegated authority to the Division of Water Quality (DWQ) to approve local government ordinances under the Water Supply Watershed (WS) and Universal Stormwater Management Program (USMP) Rules. The EMC also delegated authority to DWQ to approve local government Phase II post-construction delegations under the provisions of Section 10 – Delegation of Session Law 2006-246. At their November 13, 2008 meeting, the EMC delegated authority to DWQ to pursue enforcement of the WS Rules. As of August 1, 2013, this authority has been transferred to the Division of Energy, Mineral, and Land Resources (DEMLR).

The EMC instructed the Director to provide the Water Quality Committee with periodic updates of approvals and enforcement actions. This report provides a summary of ordinance approvals and Phase II delegations granted and compliance activities conducted between October 1, 2013 and November 30, 2014. For new and existing Committee members, this year's report includes additional background information on the various programs addressed.

Overall, activity within these programs during this reporting period has been steady as compared to last year. We anticipate that in the coming months and years, there will be a relative increase in activities related to these programs as local economies continue to recover and as new surface water supplies are established. Once development activities rebound, we expect there will be renewed interest in establishment of local and regional stormwater protections which could include adoptions of Phase II and/or USMP stormwater programs.

No presentation on this report is planned for the Water Quality Committee meeting; however, staff will be available to answer questions.

### **Water Supply Watershed Protection Program**

The Water Supply Watershed Protection Rules, as adopted in 1992 and revised in 1995, require that all local governments having land use jurisdiction within water supply watersheds adopt and implement water supply watershed protection programs. These programs must include an ordinance that meets the state's minimum requirements and a watershed map. Revisions to these ordinances and maps must be approved by the EMC or its designee. Below is a summary of ordinance and map approvals for this reporting period.

### **Water Supply Ordinance and Map Approvals**

1. Bertie County
  - Adopted a Watershed Ordinance and Map to reflect the reclassification of a segment of the Roanoke River from Class C to Class WS-IV.
2. Martin County
  - Amended their Watershed Protection Ordinance and Map to reflect the reclassification of a segment of the Roanoke River from Class C to Class WS-IV.
3. Town of Williamston
  - Amended their Watershed Protection Ordinance and Map to reflect the reclassification of a segment of the Roanoke River from Class C to Class WS-IV.
4. Town of Haw River
  - Amended their Watershed Protection Ordinance to allow the high density option.
5. Catawba County
  - Amended their Watershed Map in response to a request from a property owner to alter existing drainage patterns on a site in the City of Newton such that stormwater will discharge below the water supply intake in the South Fork Catawba River. Approval was conditional on completion of the project as proposed. This site is subject to NPDES Phase 2 stormwater requirements.
6. Henderson County/Town of Mills River
  - Henderson County amended their Watershed Map in response to a request from the Town of Mills River and its residents to adjust the watershed boundary of the Lower Mills River – Asheville watershed near NC Highway 280. The revised map, which was based on aerial topographic survey information, NCDOT Lidar topographic information, and field visits, represented the location of the Lower Mills River watershed boundary more accurately than their existing map. The area removed from the water supply watershed may be subject to NPDES Phase 2 stormwater requirements.

7. City of Asheboro

- Amended Watershed Protection Regulations of their Zoning Ordinance to promote consistency with Randolph County in regards to the review process for hazardous materials storage.

**Water Supply Compliance & Enforcement Activities**

There was one enforcement action during this reporting period:

Caswell County

- In a letter dated January 2, 2014, DEMLR notified Caswell County of its program deficiency and recommended enforcement pursuant to N.C. General Statute §143-214.5 for failing to implement a watershed protection ordinance in the Dan River Water Supply Watershed. The receipt of our January 2, 2014 letter established the timeframe for compliance of 120 to 365 days. Caswell County was required to address this deficiency by adopting and implementing a watershed ordinance and map for the Dan River watershed.
- Caswell County subsequently adopted a watershed ordinance and map for the Dan River watershed on March 17, 2014. DEMLR approved the ordinance and map on April 1, 2014 and considers the program deficiency resolved.

Staff is continuing to perform compliance activities in addition to maintaining a core focus on customer service and technical assistance. Response from local governments in the form of ordinance revisions, reports on activities, etc., indicate that compliance has improved as a result of this initiative, and we will continue to work towards the goal of reviewing each local program on a regular, rotating basis. This effort has also helped increase awareness across the state of stormwater issues and has facilitated communication between local governments and NCDENR in general.

**Universal Stormwater Management Program**

The Universal Stormwater Management Program (USMP) is a voluntary program that allows local governments to adopt and administer a single set of post-construction stormwater requirements that satisfies the mandates for a variety of different stormwater programs. The USMP was designed to be simpler and easier to implement while still being protective of the natural environment.

There were no new USMP adoptions during this reporting period. However, since the inception of the program, the following communities have adopted a USMP ordinance.

1. Kure Beach (Brunswick County)
2. Town of Emerald Isle (Carteret County)

3. Town of Ahoskie (Hertford County)
4. Town of Butner (Granville County)

### **NPDES Phase II Stormwater Program**

The Phase II stormwater program was established by the Federal Clean Water Act. North Carolina subsequently passed into law the State Stormwater Management law, P.L. 2006-246, which details how the Phase II stormwater program would work in North Carolina.

The Phase II program requires municipalities to implement stormwater management programs in pursuit of six minimum measures:

1. Public Education and Outreach,
2. Public Participation and Involvement,
3. Construction Site Runoff Control,
4. Post-Construction Stormwater Management,
5. Elimination of Illicit Discharges, and
6. Pollution Control and Good Housekeeping.

**Phase II Designation:** The Federal government initially designated over 100 North Carolina municipalities that were required to have a Phase II stormwater management program based on meeting population and/or housing unit thresholds. In addition, the State has designated or can designate additional communities based on population growth, impaired waters, or the presence of threatened and endangered species.

Based on 2010 U.S. Census data, EPA has identified three local governments that have populations over 10,000, twenty-four local governments with populations less than 10,000 and five local governments with populations less than 1,000. Local governments with populations less than 10,000 could be waived and local governments with populations less than 1,000 could be exempt from the requirement to seek coverage under the NPDES program if they have adequate programs to protect water quality. DEMLR staff will be requesting additional information from the local governments to determine if they qualify for a waiver or may be exempt.

Currently, there are 89 small municipalities with an individual MS4 NPDES Phase II permit, and two MS4 NPDES Phase II co-permits in effect for 12 additional small municipalities. This is in addition to the Phase I NPDES MS4 permits in effect for six large municipalities (those with populations greater than 250,000), four military bases, and six non-traditional MS4 permits (e.g., NCDOT, UNC, NC State). Three additional municipalities -- New Bern, Statesville, and Lexington

-- are in the process of preparing applications to be covered under the MS4 NPDES Phase II program.

**Phase II Delegation:** Around and outside the jurisdiction of some communities (aka “municipal sphere of influence”), the State also requires implementation of a Phase II post-construction stormwater program. The State may delegate the implementation of this program to a city (under its extraterritorial jurisdiction authority) or county if they request such delegation. If delegation is not requested, the State implements the program in those areas. There were no new delegation requests during this reporting period. Previously delegated jurisdictions are Buncombe County, Guilford County, Henderson County and Gaston County.