

Agenda Item: 16-26 Request Approval of Revisions to 15A NCAC 02B .0227 Water Quality Management Plans

Explanation:

At the September 2015 Environmental Management Commission (EMC) meeting, the EMC approved rule amendments reflecting the reclassification of a portion of the Cape Fear River in New Hanover and Brunswick Counties to Class SC Sw with a water quality management plan. The rulemaking involved proposed amendments to 15A NCAC 2B .0227 (2B .0227) and 15A NCAC 2B .0311 (2B .0311) that had been publicly noticed in early 2015. Then the Division of Water Resources (DWR) submitted the EMC approved rule amendments to the Rules Review Commission (RRC), and RRC legal staff requested technical changes to 2B .0227. The requested changes addressed 2B .0227 rule language primarily in existence prior to the rule amendments approved at the September 2015 EMC meeting. DWR considered the requested changes for the purposes of clarity only, and DWR responded to the requested technical changes with revisions to 2B .0227 that DWR felt did not alter the intent or purpose of the rule. EMC approved the revisions at its November 2015 meeting to go out to public notice.

Public notice of the revised version of 2B .0227 was published in the *North Carolina Register* along with the EMC approved responses to the requested technical changes. The opportunity to request a public hearing was included in the public notice, but no hearing was requested, and therefore, no hearing was held. A citation correction noted by DWR and included in a comment letter was subsequently made to the published version of the rule along with language DWR provided for clarity. An Addendum to the Hearing Officer's Report of Proceedings was sent to the members of the EMC and includes all written comments received on the revised version of 2B .0227.

Recommendation:

DWR staff recommends that the revised version of 2B .0227 with the above-noted citation correction and clarifying language be approved by the Commission. If approved by the EMC and then approved by the RRC in June of this year, the effective date for all amendments to 2B .0227 will be July 1, 2016. In addition, given that the proposed amendments to 2B .0227 for a water quality management plan for a Cape Fear River segment were approved in conjunction with proposed amendments to 2B .0311 for a reclassification of the same Cape Fear River segment to Class SC Sw, the proposed effective date of the amendments to 2B .0311 will also be July 1, 2016.