**ENVIRONMENTAL MANAGEMENT COMMISSION**

**WATER QUALITY COMMITTEE MEETING AGENDA**

**January 10, 2018**

**Archdale Building-Ground Floor Hearing Room**

**1:00 PM – 3:30 PM**

General Statute § 138A-15 mandates that the Chair inquire as to whether any member knows of any known conflict of interest or appearance of conflict with respect to matters before the Environmental Management Commission’s Water Quality Committee. If any member knows of a conflict of interest or appearance of conflict, please so state at this time.

**Dr. Albert Rubin, Chair, Presiding**

**I. Preliminary Matters**

1. Approval of November 8, 2017 Water Quality Committee Meeting Summary

**II. Agenda Items**

**1. Request to Proceed to the Environmental Management Commission (EMC) for Public Notice with Proposed Reclassification of Lake Enka in Buncombe County (French Broad River Basin) to Class B – (Action Item) (Elizabeth Kountis, Division of Water Resources)**

A request to reclassify Enka Lake has been received by the Division of Water Resources (DWR) from the Biltmore Lake Association. These waters meet the qualifications for the proposed reclassification to Class B. The Water Quality Committee (WQC) will be asked to approve this reclassification request in order for staff to proceed to the full Commission for permission to send the proposed reclassification out to public notice. (Attachments enclosed: Enka Lake Memorandum, Map for Enka Lake Proposed B Reclassification, Proposed Amendments to the French Broad River Basin Rule 15A NCAC 02B .0304, and PowerPoint Presentation)

**2. Request to Proceed to the EMC for Public Notice and Hearings with Proposed Rule Readoptions and Revisions for Triennial Review to Rules 15A NCAC 02B .0100-.0300 – (Action Item) (Jeff Manning, Division of Water Resources)**

The 15A NCAC 02B rules underwent S.L. 2013-413 Rules Review in 2014 which required the rules to be readopted. In addition, the US EPA disapproved parts of these rules in 2016, after the EMC had adopted them in 2014 for the Triennial Review of water quality standards. These rules have undergone stakeholder review in 2015, and again in 2017. Amendments are proposed to address organization, needed clarifications, and deletions of unnecessary or outdated components. Amendments are also proposed to address EPA’s disapprovals, specifically regarding Action Level regulations for copper, silver, and zinc. Removal of these Action Level components requires a revision to the fiscal note that was previously approved by the EMC and OSBM. Further, to suffice the federal Triennial Review requirement to review standards and provide opportunity for public comment at least once every three years, staff will provide a list of concepts to consider including in the “Notice of Text” for these rules. DWR will request approval to move forward with the attached rule amendments to the EMC for approval to go to public notice and hearing. (Attachments enclosed: 15A NCAC 02B .0100 Draft Rules, 15A NCAC 02B .0201-.0231 Draft Rules, 15A NCAC 02B .0300 Draft Rules, and PowerPoint Presentation) (Added 01/03/2018 as Supplemental Information: Draft Fiscal Note)

**3. Request to Proceed to the EMC for Public Notice and Hearings on Readoptions and Proposed Amendments to Water Supply Watershed Protection Rules 15A NCAC 02B .0620 through .0624 – (Action Item) (Julie Ventaloro, Division of Energy, Mineral and Land Resources)**

The Division of Energy, Mineral and Land Resources (DEMLR) staff requests WQC approval to proceed to the EMC in March 2018 with proposed amendments to the Water Supply Watershed Protection Program rules. Amendments are proposed in accordance with G.S. 150B-21.3A which directs state agencies to review and update their rules every 10 years. The content of these rules is proposed to be moved from within Sections 15A NCAC 02B .0100 and .0200, which contain water quality standards, to Section 15A NCAC 02B .0600 Water Quality Management Plans. This reorganization will result in a rule set that is clear in its purpose and will be easier to understand. Proposed amendments to the text are for clarification, increasing flexibility of local government administration, and consistency with recently-readopted stormwater management rules. (Attachments enclosed: Proposed Water Supply rule changes, Table of Water Supply rule changes cross referenced with current 02B .0100 and .0200 rules, 15A NCAC 02B .0620 - .0624 rules, and PowerPoint Presentation)

**4. Request Approval to Begin Rulemaking Process for Proposed Amendments to Nutrient Strategy Rules 15A NCAC 02B .0229 through .0258 and Proposed 15A NCAC 02B .0701 and .0730- (Action Item) (John Huisman, Division of Water Resources)**

The 15A NCAC 02B Nutrient Strategy Rules for the Neuse and Tar-Pamlico River Basins (.0229 to .0258) underwent Rule Review in 2014 per Session Law 2013-413 which requires all of the Department’s rules to be readopted. The rules went through a series of stakeholder meetings in 2015 and were revised based on stakeholder input in 2016. An update on rule revisions was provided to the WQC in March and September 2017. A supplemental stakeholder meeting was then held in October 2017 to receive additional input and an update on revisions based on this stakeholder engagement was provided to the WQC in November 2017. As the next step in the process staff will begin development of the fiscal analysis. Staff requests the WQC’s approval to begin the rulemaking process for proposed amendments to the nutrient strategy rules 15A NCAC 02B .0229 - .0258 and proposed adoptions of 15A NCAC 02B .0701, Nutrient Strategy Definitions and 15A NCAC 02B .0730, Tar-Pamlico and Scope. (Attachments enclosed: 15A NCAC 02B Nutrient Draft Rules and PowerPoint Presentation)

**5.** **Request Approval to Proceed to the EMC with Water Quality Permitting Rules in 15A NCAC 02B and 02H – (Action Item) (Karen Higgins, Mike Templeton, and Deborah Gore, Division of Water Resources)**

The 15A NCAC 02B and 02H rules underwent S.L. 2013-413 Rules Review in 2014 which required the rules to be readopted.  The WQC received an update on these rules in March and September 2017. Included in this package are the following rules: Effluent Limitations (02B .0400), Surface Water Monitoring: Reporting (02B .0500), Point Source Discharges to Surface Waters (02H .0100), Coastal Waste Treatment Disposal (02H .0400), Special Orders (02H .1200), Local Pretreatment Programs (02H .0900), Water Quality Certification (02H .0500), Discharges to Isolated Wetlands and Waters (02H .1300), Goose Creek Water Quality Management Plan (02B .0601 - .0604), Randleman Lake Water Supply Plan (02B .0720 to .0722), and Riparian Buffer Protection Rules for Goose Creek, Catawba River Basin, Neuse River Basin, Randleman Lake, and Tar-Pamlico River Basin (02B .0605 - .0608, .0610 - .0614, .0714, .0715, .0724, .0734, .0735). All current proposed versions of the rules are located in the "Rule Readoption" spreadsheet located at <http://deq.nc.gov/about/divisions/water-resources/water-resources-regulations-guidance/dwr-classifications-standards/rule-readoption-process> (user note:  Once in the Excel table, use the tabs in the Lower Left corner to navigate to the 02B and 02H Subchapters of rules).  Included in the spreadsheet are the Regulatory Impact Analyses, where available.  The WQC will be asked to approve the Water Quality Permitting rule drafts in 02B & 02H in order for the rules to proceed to the full EMC for approval to go to public hearing and notice.  (Attachments enclosed: Proposed rules 02B .0400, .0500, .0601 - .0614, .0714, .0715, .0720 - .0724, .0734, .0735, 02H .0100, .0400, .0500, .0900, .1200, .1300, and PowerPoint Presentation)

**6. Request to Proceed to the EMC for Public Notice and Hearings with Proposed Revisions to 15A NCAC 02K .0212 of the Dam Safety Rules – (Action Item) (Boyd Devane, Division of Energy, Mineral and Land Resources)**  
  
In the statutorily-required, Periodic Rules Review process, the “initial determination” or “categorization” of the 33 Dam Safety rules in 15A NCAC Subchapter 2K were sent out to public notice and approved for finalization by the EMC at its May 2017 meeting. The “categorization” included a recommendation that two of the 33 rules be categorized as “unnecessary” and the others categorized as “necessary without substantive public interest.” Although no one objected to EMC classification for the rules, one comment had been received stating that the “The reference to G.S. 143-215.25(4) should be G.S. 143-215.25(2).” Paragraphs (2) and (3) of the statute had been deleted by the Legislature in 1993 which left the EMC’s rule language inaccurate. The DEMLR staff agreed with the need to make this correction and had planned to do that at the next time we took the Dam Safety rules out for public review. However, in considering the EMC recommendations regarding the Dam Safety rules classifications, the Rules Review Commission (RRC) in October of this year, determined that the comment received was an “objection” and they re-categorized this rule as “necessary with substantive public interest.” This means that the EMC must re-adopt this rule pursuant to G.S. 150B-21.3A and update the incorrect statutory reference. Because the entire rule will be reviewed by the RRC, DEMLR asked RRC staff to review the existing rule and offer suggestions for making it consistent with the RRC’s current protocols. Having received those suggestions, the DEMLR staff has proposed rule language changes and seeks approval to take proposed rule 15A NCAC 02K .0212 to the EMC with a request that it be sent to public notice and hearing. (Attachment enclosed: Proposed Rule Changes to 15A NCAC 02K .0212)

**7. Algal Blooms – (Information item) (Mark Vander Borgh, Division of Water Resources)**

DWR staff will provide an overview of DWR’s algal bloom assessment and its response to harmful algal blooms. (Attachment enclosed: PowerPoint Presentation)

**III. Closing Comments – WQC Chair, Dr. Albert Rubin**