

**ENVIRONMENTAL MANAGEMENT COMMISSION  
WATER QUALITY COMMITTEE MEETING AGENDA**

**November 18, 2020**

**1:00 PM – 3:30 PM**

In the event the previously scheduled Environmental Management Commission (EMC) committee meeting adjourns prior to the estimated adjournment time, the Water Quality Committee (WQC) meeting may be called to order, by the WQC Chair, 15 minutes after the previous meeting adjourned.

The EMC meeting audio and presentations will be broadcast via the state web conferencing link posted on the EMC website at <https://deq.nc.gov/about/divisions/water-resources/water-resources-commissions/environmental-management-commission>

Items marked with an asterisk (\*) will be presented orally at the WQC meeting only upon a request by a WQC member and can be approved where required as a group. Also, items marked with a less-than sign (<) have no agenda item pages in the package.

**Marion Deerhake, Chair, Presiding**

**I. Preliminary Matters**

1. Call to Order and Notice of NCGS 163A-159(e)..... WQC Chair Deerhake

North Carolina General Statute 163A-159(e) 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.

2. Approval of [draft minutes of the September 9, 2020, Water Quality Committee meeting](#).

**II. Action Items**

1. Request to Proceed to the EMC for Public Notice and Hearings with Proposed Triennial Review Amendments to Select Rules in 15A NCAC 02B .0200 and .0300 - (Chris Ventaloro, Division of Water Resources, Classifications, Standards and Rules Review Branch)

The Division of Water Resources (DWR) is requesting approval from the WQC to proceed to the EMC to request public notice and hearings on proposed amendments to 15A NCAC 02B .0202, .0208, .0211, .0212, .0214 -.0216, .0218 -.0220, .0301 and .0311. The majority of amendments are proposed in accordance with the federal Clean Water Act requirement to review water quality standards and provide opportunity for public comment at least once every three years. This process is known as the Triennial Review. There are also a small number of technical corrections and clarifications, including several new definitions. In addition to the amendments,

staff will present a list of topics to publish in the “Notice of Text” in order to solicit additional public comment for future Triennial Reviews. (Attachments enclosed: [15A NCAC 02B .0202 - .0220 Draft Rules](#), [15A NCAC 02B .0301 and .0311 Draft Rules](#), [Preliminary Fiscal Note Screening Analysis Summary](#), and [PowerPoint presentation](#))

2. Request for Approval to Proceed to the EMC with Proposed Temporary Rules 15A NCAC 02H .1301 (Revision) and 15A NCAC 02H .1400 (.1401 through .1405) (New) and Request for Recommendation to EMC to waive 30-day rule - (Sue Homewood, Division of Water Resources, 401 and Buffer Permitting Branch)

On April 21, 2020, the U.S. Environmental Protection Agency (EPA) and the Department of the Army published the Navigable Waters Protection Rule in the Federal Register to finalize a revised definition of “waters of the United States” under the Clean Water Act (“Federal Rule”). The new Federal Rule became effective on June 22, 2020. As a result of the new Federal Rule, a subset of wetlands classified under State law are no longer subject to federal Clean Water Act jurisdiction. These classified wetlands remain protected by 15A NCAC 02B .0231 - Wetland Standards, but, as a result of the new Federal Rule, there is no mechanism available to authorize impacts. To provide a regulatory mechanism to authorize impacts to wetlands that are no longer federally jurisdictional and to provide regulatory certainty, the Division is proposing temporary rulemaking. The Division will request approval from the WQC to proceed to the EMC to initiate temporary rulemaking and will request the EMC waive the thirty-day rule on this item in order to expedite the rulemaking process. (Attachments enclosed: [Temporary Rules 15A NCAC 02H .1400\(.1401 through .1405\)](#), [Temporary Rule 15A NCAC 02H .1301\(revision\)](#), [Navigable Waters Protection Rule published in the Federal Register](#), and [PowerPoint presentation](#))

### **III. November 19, 2020 EMC Agenda Items**

Request for Approval of 30-day Waiver and to Proceed to Public Notice and Hearing for Proposed Temporary Rules 15A NCAC 02H .1301 (Revision) and 15A NCAC 02H .1400 (.1401 through .1405) (New) – (Sue Homewood, Division of Water Resources, 401 and Buffer Permitting Branch)

### **IV. Information Items**

1. Draft Falls Lake Stage I Existing Development Model Program - (John Huisman, Division of Water Resources, NonPoint Source Branch)

The Falls Lake Existing Development Stormwater Rule (.0278) requires affected parties to implement load reduction programs to reduce nutrient loading from existing developed lands under their control in the watershed. Implementation is divided into two Stages with Stage I calling for reductions in loading back to 2006 baseline levels with additional reductions called for in Stage II that equate to the full reduction goals of the strategy. The Rule also requires DWR to develop a Model Program to provide the accounting tools, practices, and guidance affected parties can use to develop their required load reduction programs. Staff will provide an overview of the draft Model Program which is in the process of being updated to address public comments received from stakeholders in October. The Executive Director of the Upper Neuse

River Basin Association (UNRBA) will also provide a brief update on anticipated participation in Interim Alternative Implementation Approach (IAIA) for meeting the State I requirements of the Rule. Once completed, the final Model Program will be brought to the January meeting of the WQC to request permission to present it at the EMC meeting for approval. (Attachments enclosed: [Draft Falls Lake Stage I Existing Development Model Program](#) and [PowerPoint presentation](#))

2. Ed Mussler with the Division of Waste Management, Solid Waste Section, will present a presentation on [PFAS](#) in Leachate in the Groundwater Waste Management Committee meeting immediately following this Committee meeting.

3. Future Committee Interests – WQC Chair Deerhake will seek the EMC Commissioners’ input on WQC goals, future agenda topics, and long-term interests.

4. < Director’s Remarks (Danny Smith, Division of Water Resources)

**V. < Closing Comments.....WQC Chair Deerhake**

Adjournment: The next Water Quality Committee meeting is scheduled for January 8, 2021. The details of the meeting will be posted to the EMC website at <https://deq.nc.gov/about/divisions/water-resources/water-resources-commissions/environmental-management-commission>