

**NORTH CAROLINA ENVIRONMENTAL MANAGEMENT COMMISSION
WATER QUALITY COMMITTEE**

July 7, 2021

Archdale Building-Ground Floor Hearing Room

1:00 PM – 3:00 PM

Marion Deerhake, Chair Presiding

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

Meeting audio and presentations will be broadcast via the state web conferencing link posted on the Environmental Management Commission (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.*

I. Preliminary Matters

1. Call to Order and Notice of NCGS 163A-159(e)..... 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 WQC May 12, 2021 Meeting Minutes](#)

II. Actions Items

1. Request Approval to Proceed to the EMC with Proposed Permanent Rules 15A NCAC 02H .1401-1405 “Discharges to Federally Non-Jurisdictional Wetlands and Federally Non-Jurisdictional Classified Surface Waters” and Permanent Rule Amendments for 15A NCAC 02H .1301 “Discharges to Isolated Wetlands and Isolated Waters: Purpose and Scope” (Sue Homewood, Division of Water Resources 401 & 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 was no permitting 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, temporary rules were adopted by the EMC and approved by the Rule Review Commission (RRC) in May 2021. In accordance with G.S. 150B-21.1(d)(5), these temporary rules will expire 270 days from the date of publication in the NC Register unless the permanent rule is adopted by the EMC to replace the temporary rule. In order to meet the expiration date of the temporary rules, the Division of Water Resources (Division) staff is requesting approval from the WQC to proceed to the EMC in September with a request to proceed to public notice and public hearing on draft permanent rules. (Attachments enclosed: [15A NCAC 02H .1401-.1405](#) and [.1301](#), [Final Screening Analysis 02H Wetland Rules_20210614](#), and [PowerPoint Presentation](#))

2. Request Approval to Proceed to the EMC with the 2021 Pasquotank Basin Water Resources Plan (Forest T. Sheperd, Division of Water Resources Basin Planning Branch)

The Division’s Basin Planning staff will update the WQC on the completion of the 2021 Pasquotank River Basin Water Resources Plan and introduce recommendations for this river basin. (Attachments enclosed: [2021 Executive Summary Pasquotank River Basin](#), [2021 Pasquotank River Basin Webpage](#), [2021 Pasquotank River Basin Public Comments and Responses](#), and [PowerPoint Presentation](#))

3. Water Supply Watershed Protection Overview/Update including 2020 Annual Water Supply Watershed Protection, Universal Stormwater Management Program, MS4 Phase II Report Approval (Annette Lucas, Division of Energy, Mineral, and Land Resources)

A brief history and background of the Water Supply Watershed Protection Program will be provided. Recent program updates of the past year or so will be included. The Division of Energy, Mineral, and Land Resources staff will request approval of the 2020 Annual Water Supply Watershed Protection, Universal Stormwater Management Program, MS4 Phase II Report.

(Attachment enclosed: [2020 Annual Water Supply Watershed Protection, Universal Stormwater Management Program, Phase II Report Final signed 20210617](#) and [PowerPoint Presentation](#))

4. Request Approval of Updated, Revised Draft Water Supply Watershed Ordinance (Annette Lucas, Division of Energy, Mineral, and Land Resources)

The Water Supply Watershed Protection model ordinance was last revised in 1995. An overview of the new revised updated model ordinance will be provided with most significant changes noted. The Division of Energy, Mineral, and Land Resources staff will request approval of the 2021 revised updated draft WSWP model ordinance.

Attachments enclosed: [Draft Model Water Supply Watershed Protection Ordinance](#) and same PowerPoint Presentation for action item 3 in this agenda)

III. July 8, 2021 EMC Meeting Agenda Items

- 1.* Request Permission to Proceed to Public Notice and Hearing with Proposed Amendments to 15A NCAC 02B .0211 for a Site-Site-specific Chlorophyll-a Surface Water Quality Standard for High Rock Lake Reservoir and the Associated Regulatory Impact Analysis (Chris Ventaloro, Division of Water Resources, Classifications, Standards, and Rules Review Branch)
- 2. *2021 Status Report: Falls Lake Nutrient Strategy (John Huisman, Division of Water Resources, NonPoint Source Planning Branch)

IV. Information Items

1. 2021 Report on Minor Modifications to Approved Major Variances (No Presentation, Paul Wojoski, Division of Water Resources 401 & Buffer Permitting Branch)

At its March 13, 2013 meeting, the WQC delegated approval of minor modifications to approved major variances of the Riparian Buffer Protection Rules to the Director of the Division of Water Quality (now Division of Water Resources). The WQC instructed the Division to provide regular reports to the WQC. This report provides a summary of modifications issued by the Division from May 31, 2019 to May 31, 2021.

(Attachment enclosed: [2021 Report on Minor Modification to Major Variance](#))

2. 2021 Status Report: Falls Lake Nutrient Strategy (John Huisman, Division of Water Resources, NonPoint Source Planning Branch)

The Falls Lake nutrient management strategy (15A NCAC 2B .0275 through .0282) is a comprehensive set of rules that went into effect in 2011 to address excess nutrient inputs to Falls Lake. Now in their tenth year of implementation, the rules require the Division of Water Resources to report to the Commission on specific aspects of progress in the Falls Lake watershed beginning in January 2016 and every five years thereafter. The attached report is the second five-year report under that requirement and provides an update on implementation of the rules, an assessment of nutrient loading to the lake, details on watershed activities, assessments of progress towards achieving the chlorophyll *a* water quality standard and characterizes advancements in scientific understanding and treatment technology. Staff from several programs in the Division as well as stakeholders contributed to the information provided in this comprehensive report.

The unprecedented nutrient reductions required in Falls and the adaptive aspect of the management strategy call for these five-year check-ins to evaluate implementation progress and inform potential adjustments. This second five-year report benefits from data collected and analyzed not only by the Division, but also from an extensive, four-year data collection effort conducted by the UNRBA to support a full remodeling of the watershed and lake, as well as early results of a three-year UNC Collaboratory study of the lake and Falls nutrient strategy. Once completed, recommendations from both these efforts will inform the content of the Division’s next report and the EMC’s readoption of the Falls Lake Nutrient Management Strategy, which is scheduled to begin in 2024. (Attachments enclosed: [Falls Lake 2021 Status Report July 2021](#) and [PowerPoint Presentation](#))

3. Future Committee InterestsChair, Marion Deerhake

4. Director’s Remarks (Danny Smith, DWR)

V. Closing Remarks..... Chair, Marion Deerhake