**CHAPTER 2 - ENVIRONMENTAL MANAGEMENT**

**SUBCHAPTER 2A - ORGANIZATION OF ENVIRONMENTALMANAGEMENT COMMISSION**

**15A NCAC 02A .0101 NAME**
The name of this commission shall be the Environmental Management Commission. The Commission's mailing address is Box 27687, Raleigh, North Carolina 27611.

*History Note: Authority G.S. 143-215.3(a)(1);*
*Eff. February 1, 1976.*

**15A NCAC 02A .0102 DEFINITIONS**
The following definitions shall be used throughout this Subchapter:
(1) Commission -- shall mean the Environmental Management Commission;
(2) Secretary -- shall mean the Secretary, Department of Natural Resources and Community Development;
(3) Division -- shall mean the Division of environmental management, Department of Natural Resources and Community Development;
(4) Director -- shall mean the Director, Division of Environmental Management, Department of Natural Resources and Community Development;
(5) State -- shall mean the State of North Carolina.

*History Note: Authority G.S. 143-215.3(a)(1);*
*Eff. February 1, 1976;*
*Amended Eff. December 15, 1978; November 1, 1978.*

**15A NCAC 02A .0103 GENERAL DUTIES AND POWERS**
The Commission has the duty and power to adopt regulations governing the following list of subjects:
(1) air quality standards, emission control standards and classifications for air contaminant sources pursuant to G.S. 143-215.107;
(2) water quality standards and classifications pursuant to G.S. 143-214.1 and G.S. 143-215;
(3) water and air quality reporting pursuant to G.S. 143-215.64;
(4) capacity use areas pursuant to G.S. 143-215.14;
(5) the issuance of permits for water use within capacity use areas pursuant to G.S. 143-215.14; and
(6) protection of the land and the waters over which this state has jurisdiction from pollution by oil, oil products and oil by-products pursuant to Article 21A of Chapter 143.

*History Note: Authority G.S. 143-215.3(a)(1); 143B-282;*
*Eff. February 1, 1976;*
*Amended Eff. July 1, 1988.*

**15A NCAC 02A .0104 STRUCTURE**

*History Note: Authority G.S. 143-215.3(a)(1); 143B-283 to 143B-285;*
*Eff. February 1, 1976;*
*Amended Eff. November 1, 1978;*
*Repealed Eff. July 1, 1988.*

**15A NCAC 02A .0105 DELEGATIONS OF AUTHORITY**
(a) The N.C. Environmental Management Commission therefore resolves that:

(1) Whenever in these resolutions and rules there exists a delegation of authority to the Director, Office of Water and Air Resources (now the Division of Environmental Management), it shall become and read as a delegation of authority to the Secretary of the Department of Environment, Health, and Natural Resources to act on behalf of the N.C. Environmental Management Commission; and

(2) The Secretary of the Department of Environment, Health, and Natural Resources, in addition to the delegations mentioned in Paragraph (a)(1) of this Rule, is hereby delegated the authority to issue permits for the Environmental Management Commission as provided in N.C. General Statutes 143-215.1, 143-215.108, 143-215.109, 143-215.15, 143-215.28, and 87-88, and to approve the use of chemicals or other dispersants or treatment materials as provided in G.S. 143-215.84(a), and the Secretary or his delegate shall report all such issuances or approvals to the Commission; and

(3) The Secretary of the Department of Environment, Health, and Natural Resources may delegate such of these authorities to any qualified employee of the Department of Environment, Health, and Natural Resources upon a finding by the Secretary of necessity in order to effectively and efficiently administer and enforce the rules of the N.C. Environmental Management Commission.

(b) Power to Enter Operational Agreements. The Commission authorizes the Secretary, on behalf of the Commission, to enter into any future operational agreements among the Commission, the developer of a condominium project or projects, and the condominium homeowners' association. The purpose of the operational agreement is to provide for an orderly transfer of permits issued to condominium project developers by the Commission; to identify the party to whom the developer will transfer the permit; and to guarantee that transferee homeowners' associations will comply with conditions of permits issued developers.

(c) Therefore, the Environmental Management Commission hereby resolves that: The Secretary, Department of Environment, Health, and Natural Resources is authorized to:

(1) determine eligibility of applicants in accordance with Rule .0201, State Grants, found in Subchapter 2F of this Title;

(2) give public notice of each eligible application as required in Rule .0201, State Grants, found in Subchapter 2F of this Title;

(3) notify the applicant of the Commissions' recommended grant award as required in Rule .0201, State Grants, found in Subchapter 2F of this Title;

(4) notify the applicant of a determination by the Commission of failure to qualify for a grant award as required in Rule .0201, State Grants, found in Subchapter 2F of this Title;

(5) forward to the Department of Administration a Certificate of Eligibility for each grant award as required in Rule .0201, State Grants, found in Subchapter 2F of this Title;

(6) prepare and file the annual report as required in Rule .0201, State Grants, found in Subchapter 2F of this Title;

(7) redelegate any or all of the above duties to employees of the Division of Environmental Management.

*History Note:* *Authority G.S. 143-215.3(a)(1); 143-215.3(a)(4);*
*Eff. February 1, 1976;*
*Amended Eff. March 1, 1993; July 1, 1988; November 1, 1978.*

**15A NCAC 02A .0106 REDELEGATIONS FROM THE SECRETARY**

*History Note:* *Authority G.S. 143-215.3(a)(1); 143-215.3(a)(4); 143B-10;*
*Eff. February 1, 1976;*
*Amended Eff. December 4, 1978; September 3, 1976; July 28, 1976;*
*Repealed Eff. July 1, 1988.*

**15A NCAC 02A .0107 CREATION OF N.P.D.E.S. COMMITTEE**

(a) The Chairman of the Commission shall appoint at least five members of the Commission to serve as the National Pollutant Discharge Elimination System (NPDES) Committee, to advise the Commission on matters related to that system.

(b) Appointees to the NPDES Committee shall be persons who do not receive, or during the previous 24 months have not received, a significant portion of their income directly or indirectly from NPDES permit holders or applicants for NPDES permits.

(c) For purposes of this Rule:

(1) The term "significant portion of their income" shall mean 10 percent of gross personal income for a calendar year, except that it shall mean 50 percent of gross personal income for a calendar year if the recipient is receiving such portion pursuant to retirement, pension, or similar arrangement, including other forms of income.

(2) The "NPDES permit holders or applicants for NPDES permits" shall not include any department or agency of a state government.

(3) The term "income" includes, but is not limited to, retirement benefits, consultant fees, and stock dividends.

(4) Income is not received "directly or indirectly form NPDES permit holders or applicants for NPDES permits" where it is derived from mutual-fund payments, or from other diversified investments for which the recipient cannot identify the primary sources of income.

*History Note:* *Authority G.S. 143-215.3(a)(1); 143B-283;*
*Eff. February 1, 1976.*
*Amended Eff. October 1, 1988.*

**15A NCAC 02A .0108 REDELEGATION BY DIRECTOR: DIVISION OF ENVIRONMENTAL MGM'T**

*History Note:* *Authority G.S. 143B-10; 87-88; 143-215.1; 143-215.108;*
*Eff. December 11, 1978;*
*Amended Eff. June 18, 1979;*
*Repealed Eff. July 1, 1988.*