Agenda Item: 10-24 Request to Proceed to Additional Public Comment Period on the Animal Operations Monitoring Rules, 15A NCAC 2T .1310 & .1311

Explanation: The Waterkeeper Alliance, et. al. filed rule making petitions during the fall of 2007 to require monitoring for animal operations covered by the NPDES General Permit and State General Permit. The EMC granted the petition in May 2008; however, it directed staff to gather more input on draft rules before proceeding to the public comment process. Four stakeholder meetings were conducted, and staff made changes to the proposed rules based upon input during the meetings. The EMC approved the rules for public notice in November 2008.

Four public hearings were held during the 60-day comment period in 2009. Staff received approximately 1,000 written and oral comments, almost exclusively on the surface water monitoring provisions of the proposed rules. As a result of public comments, the hearing officers made several changes to the proposed rules. The major change is a reduction in the number of parameters to be analyzed during routine surface monitoring from five to three. The change to remove fecal coliform and BOD_5 was made for several reasons. Issues were raised during the first public comment period about sample collection techniques and holding time requirements for fecal coliform and BOD_5. The elimination of fecal coliform and BOD_5 will also reduce the cost per farm by approximately $400 annually. The hearing officers and DWQ staff would like to receive comments on these proposed changes before making a final recommendation on the proposed rules.

Recommendation: The hearing officers recommend that the rules proceed to a second public comment period for the proposed amendments.