Agenda Item: 11-28 Hearing Officers Report of the Proposed Rules for Monitoring at Animal Feeding Operations

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, including a reduction in the number of parameters to be analyzed during routine surface water monitoring from five to three.

In June 2010, the EMC held a second comment period for the rules to receive input on the proposed changes to the rules. At the same time, DENR management directed DWQ to pursue funding for a study that could help to answer some of the issues raised by industry about the necessity and format of monitoring at animal operations.

In May 2011, DWQ and the USGS finalized a contract to perform a multi-year study of possible surface water impacts related to animal operations.

Recommendation: The hearing officers recommend that the EMC decline to adopt the proposed rules for monitoring at animal feeding operations. The EMC should review the results of the DWQ/USGS study, and if necessary, reconsider the monitoring rules at that time.