

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

**Archdale Building-Ground Floor Hearing Room
January 11, 2012**

BRIEF

At the January 11, 2012 meeting of the Environmental Management Commission (EMC) Water Quality Committee (WQC), the WQC:

- approved to proceed with the proposed Water Supply –IV Reclassification and the associated fiscal note for a segment of the Roanoke River along the Bertie County and Martin County line to the EMC.
- approved to proceed with 14 local programs that would implement the Falls Lake New Development Stormwater Rule to the EMC, and to permit the DWQ Director to grant final approval to programs on which the EMC places contingencies upon resolution of those contingencies, and subsequent program amendments that these communities may propose.
- heard a summary of a DWQ study on the Neuse and Pamlico Buffer Rules pursuant to Session Law 2011-394(17)(e).
- heard an update on the proposed consolidated buffer mitigation and flexible mitigation options rule, and the mercury Total Maximum Daily Load.

WQC Members in Attendance:

Dr. Charles H. Peterson (Chairman)
Mr. Dickson Phillips III
Mr. Donnie Brewer
Mr. Tom Ellis
Dr. David Moreau.
Mr. Kevin Martin
Mr. Steve Tedder
Mr. Stephen Smith
Mr. William Les Hall, Jr.
Dr. Ernest Larkin
Mr. Jeffrey Morse

Others Present:

Mr. Chuck Wakild, DWQ Director
Mr. Frank Crawley, Attorney General Office
Mr. Marvin Cavanaugh, EMC
Ms. Marion Deerhake, EMC

According to General Statute 138-A15, the WQC Chairman gave an opportunity for WQC members to publically reveal a conflict or appearance of a conflict of interest with any matter on the meeting agenda. None of the members had any conflict with any matter and therefore no one recused himself from participating in a decision on any agenda matter.

1. Request Approval of the Proposed Reclassification of a Segment of the Roanoke River along the Bertie County/Martin County Line (Roanoke River Basin) to Class WS-IV Critical Area (CA) and WS-IV (Protected Area or PA) - (Action Item) (Elizabeth Kountis)

Description

Martin County Regional Water and Sewer Authority has requested the reclassification of a segment of the Roanoke River along the Bertie County/Martin County line (Roanoke River Basin). The subject portion of the Roanoke River is to be reclassified from Class C to Class WS-IV CA and WS-IV (PA) to allow a new public water supply intake. This new water supply source will allow Martin County and the Town of Williamston to meet requirements of the Central Coastal Plain Capacity Use Area (CCPCUA) rule and meet water demands through 2030. These waters meet the existing criteria for the proposed reclassification according to 2011 Division of Water Quality (DWQ) studies. The Water Quality Committee (WQC) was asked to approve this reclassification request and the associated fiscal note in order for staff to proceed to the full Environmental Management Commission (EMC) for approval of the fiscal note and for permission to send the proposed reclassification and fiscal note out to public hearing. ([Power Point Presentation](#))

Discussion

None

Motion

Mr. Tedder motioned for approval to proceed both with fiscal note and the reclassification to the full EMC. Mr. Brewer seconded the motion, and the WQC passed it unanimously.

2. Request to Proceed to the EMC for Approval of Local Programs Implementing the Falls Lake New Development Stormwater Rule, and Delegation of Further Approval Authority to the Division of Water Quality Director - (Action Item) (John Huisman)

Description

The Falls New Development stormwater rule, 15A NCAC 2B .0277, requires 14 local governments to prepare, adopt, and implement programs to achieve nutrient control on runoff from new development within their respective jurisdictions. In March 2011, the EMC approved a model local program developed by staff with input from stakeholders. The Falls communities submitted proposed programs for DWQ staff review in August 2011 and have made revisions based on staff comments. DWQ staff requested that the WQC recommend that the EMC approve all 14 programs with 2 of the 14 being “conditionally approved” contingent on receipt of their final updated UDO’s. ([Power Point Presentation](#))

DWQ staff also requested permission for the DWQ Director to grant final approval to any programs on which the Commission places contingencies upon resolution of those contingencies, and to approve any subsequent program amendments that these communities may propose from time to time. In those instances when the Director determines that approval of a modification merits additional scrutiny, the Director shall forward that issue to the WQC for its review and deliberation.

Discussion

Mr. Martin said that the WQC was approving just what was required under the rules and recognizing that some local governments may have requirements that go beyond what we require in the rules.

Motion

Mr. Martin moved for approval for DWQ’s proposal to the EMC with all the items that DWQ has requested, and that when staff receives proposed revisions or new plans they present to WQC as information items. Mr. Tedder seconded the motion, and the WQC passed it unanimously.

3. Study of the Neuse and Tar Pamlico Buffer Rules Pursuant to Session Law 2011-394(17)(e) – (Information Item)(Amy Chapman)

Description

On behalf of the Department of Environment and Natural Resources (DENR), DWQ staff has conducted a study, pursuant to Session Law 2011-394 (17)(e), of the application and implementation of the Neuse River Basin Riparian Buffer Rules (15A NCAC 02B .0233) and the Tar-Pamlico River Basin Riparian Buffer Rules (15A NCAC 02B .0259). The purpose of the study was for DENR to consider (i) whether the Neuse and Tar-Pamlico riparian buffer rules might be amended or implemented in a different way to achieve the same level of water quality protection while reducing the impact to riparian property owners in the two river basins; and (ii) exempting all single family residence lots (lots of two acres in size or less) platted prior to August 1, 2000.

Discussion

Mr. Martin said that he has a problem with the 2 acre size limitation on the lot. The Chairman said that the study report is an important public educational document and praised DWQ staff for doing a superb and thoughtful job in preparing the report. The Chairman suggested to staff the following issues to educate the public on 1) advantages to properties that incorporate a larger buffer, when there's a greater frequency of intense storms with climate change, and 2) the affect flooding would have on potentially problematic areas in the buffer such as hazardous storage sites and waste water treatment plants. Mr. Morse said that he would like to see staff to consider flexible alternative mitigation options for site-specific issues.

Motion

Not Applicable

4. Update on Proposed Consolidated Buffer Mitigation and Flexible Mitigation Options Rule – (Information Item) (Amy Chapman)

Description

DWQ presented an overview, including the changes the WQC requested in the July 2011 meeting, of the proposed revised Riparian Buffer Mitigation Rule (0295). The associated draft fiscal analysis will be presented in March to the WQC once revisions to the analysis per OSBM are completed. The Rule 02B .0295 is a consolidation of several Riparian Buffer Mitigation Rules (15A NCAC 02B.0242, .0244, .0260, .0268, .0609 and .0252) into one Riparian Buffer Mitigation Rule (0295). The purpose of this consolidation is to make these rules easier to use and also to comply with requirements in Session Law 2009-337 and Session Law 2011-398. Also included in this consolidation of existing rules are new rules addressing Flexible Mitigation Options as required by the North Carolina General Statute 143-214.20. ([Power Point Presentation](#))

Discussion

Mr. Phillips asked how a narrower buffer in an urban area is an alternative mitigation option. Ms. Chapman said that with the forested 30 feet of the 50 foot buffer in an urban area some nutrient removal would occur. Chairman Peterson asked staff to consider preservation of bottom land hardwood forests as a mechanism to satisfy some of the buffer requirements. Ms. Chapman said that staff will look at this.

Motion

Not Applicable

5. Update on Mercury Total Maximum Daily Load (TMDL) - (Information Item) (Kathy Stecker)

Description

DWQ staff presented an update on actions completed and currently underway to develop a statewide mercury TMDL, with emphasis on new information since the previous EMC update in July 2011. Staff will discuss next steps toward completion of the TMDL. The Divisions of Air Quality and Water Quality are collaborating on this project. ([Power Point Presentation](#))

Discussion

Chairman Peterson asked how quickly fish in the system would clean up, if all mercury released into the atmosphere and waterborne mercury were stopped. He also asked were there new Environmental Protection Agency (EPA) rules that are going to reduce mercury from coal fired plants outside of North Carolina. Dr. Moreau noted that there is a complementary benefit to NC Clean Smokestacks Act in the new EPA MACT standards, so we can expect out-of-state reductions as well. He also mentioned the production of methyl mercury is dependent in part on water quality characteristics. Chairman Peterson noted that there might be different reductions seen in fish in different parts of the state. Mr. Smith asked to what extent the Division has considered different reductions for different parts of the state. Mr. Morse asked whether the TMDL is for the NPDES discharges. He asked how the permits would be dealt with. Ms. Deerhake asked if the 67% reduction would be achieved, and what fraction of the overall reduction needed would be met by NC action. Mr. Smith noted that NC could reduce their mercury by 100%, but the overall 67% reduction would still not be achieved; Mr. Tedder requested a summary of fish tissue data to see the distribution, and to see the draft TMDL. Chairman Peterson noted that the Department has the fish tissue data available basin-by-basin.

Motion

Not Applicable

The summary for the January 12, 2012 WQC meeting was prepared by Adriene Weaver and approved January 2012 by Elizabeth Kountis, Amy Chapman, John Huisman and Kathy Stecker.