

Burgos, Alexander N

Subject: FW: Proposed EMC Readoption Date- 15A NCAC 02E

From: Everett, Jennifer <jennifer.everett@ncdenr.gov>

Sent: Tuesday, July 28, 2020 4:13 PM

To: May, Amber Cronk <amber.may@oah.nc.gov>

Cc: Wilson, Nat <nat.wilson@ncdenr.gov>; Higgins, Karen <karen.higgins@ncdenr.gov>

Subject: Proposed EMC Readoption Date- 15A NCAC 02E

Dear Ms. May,

The Water Allocation Committee (WAC) of the Environmental Management Commission (EMC) approved a readoption date of May 31, 2023 at its July 8, 2020 meeting for 15A NCAC 02E, 'Water Use Registration and Allocation.' We are kindly presenting this information for the RRC's consideration and approval.

'Regulation of Surface Water Transfers', Section .0400 of this Subchapter, has defined the main need for the May 2023 deadline because of its controversial nature. As presented to the WAC, staff anticipate approximately 16 months to formulate these rules, engage in stakeholder meetings, and develop the fiscal note. The proposed schedule is as follows:

- 1) Present to WAC for approval to proceed to the full EMC - January 2022 (Per EMC's bylaws all rulemaking shall be initiated at the appropriate subject area Committee prior to presenting to the EMC)
- 2) EMC approval to proceed to public comment and hearing - March 2022
- 3) Public comment period - mid-April to mid-June 2022
- 4) EMC adopts rules - January 2023
- 5) RRC review/approval - February 2023
- 6) Proposed effective date - March 1, 2023

Session Law 2020-79 requires the Department of Environmental Quality to study the statutes and rules governing subbasin transfers and make recommendations as to whether they should be amended. The report is due no later than January 15, 2021 to the Environmental Review Commission. It's possible this legislative report may affect the rules drafting and readoption process.

In addition, the Cary/Apex Inter-basin Transfer Contested Case – Consent Judgement from the Administrative Law Judge (ALJ) on page 8, number 2 states “For consideration of future interbasin transfers, [EMC and DEQ] should properly promulgate and enact rules through the formal rulemaking process.” This brings the need of holding multiple stakeholder meetings to address the ALJ concerns.

The rest of the rules in this Subchapter which include Sections .0100, .0300, .0500 & .0600 are nearly complete with regards to stakeholder involvement and internal editing. The proposed schedule is as follows:

- 1) Present to WAC for approval to proceed to the full EMC - January 2021
- 2) EMC approval to proceed to public comment and hearing - March 2021
- 3) Public comment period - mid-April to mid-June 2021

- 4) EMC adopts rules - January 2022
- 5) RRC review/approval - February 2022
- 6) Proposed effective date - March 1, 2022

Thank you. Please let us know if you have any questions.

Jennifer

Jennifer Everett
DEQ Rulemaking Coordinator
N.C. Depart. Of Environmental Quality
Office of General Counsel
1601 Mail Service Center
Raleigh, NC 27699-1601
Tele: (919)-707-8614

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