

Agenda Item: 15-50 **Request for Adoption of Modifications to Respond to RRC Staff Request for “Technical Changes” to 15A NCAC 02B .0227 Reclassification of a Portion of the Cape Fear River in New Hanover and Brunswick Counties to Class SC Sw with a Water Quality Management Plan**

Explanation: At the September 2015 EMC meeting, the EMC approved proposed rule amendments reflecting the reclassification of a portion of the Cape Fear River in New Hanover and Brunswick Counties to Class SC Sw with a water quality management plan. This rulemaking involved proposed amendments to 15A NCAC 02B .0227 and .0311. Then DWR staff took the next step involved in rulemaking, which was to submit the EMC approved rule amendments to the Rules Review Commission, or RRC, for its approval. RRC legal staff proceeded to review the submittal, and subsequently sent DWR staff a formal written request for technical changes to 02B .0227 but not 02B .0311. The requested technical changes primarily addressed rule language in existence prior to the rule amendments approved at the September 2015 EMC meeting. As a result, DWR staff responded to the request and subsequent e-mailed technical change requests to 02B .0227 from RRC legal staff, which culminated in a revised version of the rule that addressed all the concerns of RRC legal staff. EMC legal counsel reviewed the responses from DWR staff, and stated that the revisions should be presented to the EMC and receive EMC approval prior to presentation to the RRC.

Recommendation: DWR staff recommends that the revisions to 02B .0227, which were made in response to technical change requests from RRC legal staff, be approved by the EMC in order for DWR staff to proceed to the November 2015 RRC meeting. At the November 2015 meeting, RRC would be asked for approval of these revisions as well as the rule amendments approved at the September 2015 EMC meeting to 02B .0227 and 0311.