

**MEMORANDUM FOR**  
**JULY 9, 2014 WATER QUALITY COMMITTEE (WQC) MEETING**

**SUBJECT: Proposed Reclassification of a Segment of the Cape Fear River in New Hanover and Brunswick Counties (Cape Fear River Basin) from Class SC to Class SC Sw with a Water Quality Management Plan**

The Division of Water Resources (DWR) is requesting that the Environmental Management Commission (EMC) grant staff permission to proceed with the proposed reclassification of a portion of the Lower Cape Fear River. The Lower Cape Fear River Program has requested that a segment of the lower Cape Fear River in New Hanover and Brunswick Counties (Cape Fear River Basin) be reclassified from Class SC to Class SC Sw. This reclassification concerns the portion of the Cape Fear River from the upstream mouth of Toomers Creek to a line across the river between Lilliput Creek and Snows Cut, where the Intracoastal Waterway (ICW) meets the river (a map is included in the request as Figure 1).

Wetlands, some developed lands, other open waters, forest lands, shrub/scrub lands and other swamp tributaries exist directly adjacent to the proposed waters. Several tidal saltwater species, including the federally endangered shortnose sturgeon and federally endangered Atlantic sturgeon, live in the subject waters. Within the subject waters, there are 8 existing NPDES wastewater discharges.

According to the reclassification request, "...the DO standard of 5 mg/l for the Lower Cape Fear River Estuary is not appropriate since it is not achieved a significant portion of the time as a result of natural drainage from riverine wetlands and salt marshes;" in addition, the reclassification request states that "From a regulatory standpoint, a straightforward way to deal with this issue is to reclassify the area with the supplemental Sw classification." The proposed Sw reclassification would allow, if caused by natural conditions, the pH of the subject waters to reach as low as 4.3 and the DO to be lower than 5 mg/l, and in turn, may result in the removal of this segment from the state's TMDL list for DO and/or pH; thus, this proposal serves the public interest per Executive Order #70 and complies with G.S. 150B, the Administrative Procedures Act (APA). In addition, the proposed water quality management plan associated with the proposed reclassification codifies the current permitting policy already in existence for new individual NPDES wastewater discharges and expansions of existing individual NPDES wastewater discharges to the subject waters. The proposed reclassification in partnership with the proposed management plan spells out a path forward for these discharges and enables the community to plan accordingly.

A fiscal analysis for this proposal has been conducted and revealed no quantifiable cost or benefit to the ecosystem, humans, implementing agencies, and new and expanding individual NPDES wastewater discharges. Staff recommends sending this proposal and associated fiscal analysis to the November 2014 EMC meeting to request permission to proceed to public notice. The estimated effective date of the proposed rules is November 1, 2015.