

**Action Item:** 14-35 **Request for Approval of Amendments to Stormwater Rule 15A NCAC 02H .1002**

**Explanation:**

The purpose of this rulemaking is to amend Rule 15A NCAC 2H .1002, Definitions (part of the Stormwater Management rules) in order to 1) comply with a recent change in state law; 2) replace a temporary rule that will expire January 10, 2015; and 3) incorporate technical changes such as renumbering and alphabetizing the definitions.

During the 2013-2014 session of the N.C. General Assembly, two bills were signed into law that made amendments to G.S. 143-214.7 (Stormwater runoff rules and programs). Session Law 2013-413 changed the definition of "built-upon area" such that gravel was no longer considered built-upon area. In response to Session Law 2013-413, the Commission passed a temporary amendment to Rule 15A NCAC 2H .1002, defining the term "gravel." The temporary rule went into effect March 28, 2014. In July 2014, the Water Quality Committee and the Commission approved the request to proceed with permanent rulemaking to replace the temporary rule. Public comments were accepted at the August 20, 2014 hearing and during the public comment period from August 1, 2014 to September 30, 2014. In September 2014, Session Law 2014-120 again changed the definition of "built-upon area" such that gravel was no longer excluded from being considered built-upon area. This same session law also prohibited the Commission from defining the term "gravel" in the context of its stormwater programs. The timing of this latest legislation was such that the focus of the current permanent rulemaking shifted during the public comment period. A definition of the term "gravel" is no longer allowed by law; nor is it needed. As such, Rule 15A NCAC 2H .1002 as currently proposed is revised to reflect the changes mandated by Session Law 2014-120.

**Recommendation:**

The Commission will be asked to approve the changes to Rule 15A NCAC 02H .1002 as presented in the Hearing Officer's Report.