

Environmental Mgt. Commission Resolution (Minutes of September 11, 2014 Meeting)

The Department of Environment and Natural Resources is authorized and directed to work with the General Assembly to specifically resolve the inconsistent and incompatible uses of the term “ecological flow” in General Statute section 143-355 (o)(3) and (4).

Until such time that such issue is resolved, the hydrologic models for the Tar River Basin, the Roanoke River Basin and the Cape Fear River-Neuse Basin are not approved.

Until such time that such issue is resolved, the Department is authorized to continue to use the Tar River Basin, the Roanoke River basin and the Cape Fear-Neuse River Basin hydrologic modes in planning decisions and, as required in order to comply with required statutes or rules, to make decisions on permit applications or other matters concerning water allocations; PROVIDED THAT any determination required by General Statute section 143-355 (o)(3)(b) 1, 2, and 3 shall be based on site specific data and shall not be based on any generally applicable standard or value, including but not limited to any generally applicable standard or value for ecological flow contained in or derived from the report entitled “Recommendations for Estimating Flows to Maintain Ecological Integrity in Streams and Rivers in North Carolina” dated November 2013.

If the Department wishes to establish generally applicable standards or values for determining “all needs”, “all essential uses”, or “ecological flow” for purposes of making the predictions required by General Statute section 143-355 (o)(3)(b), 1, 2 and 3, it shall do so by rulemaking proceedings in accordance with the applicable provisions of the North Carolina Administrative Act.