

Summary of Environmental Legislation Enacted in the 2008 Legislative Session

Air Quality

H 2529 Extend Climate Change Commission 2008

Extends the Legislative Commission on Global Climate Change and requires a final report by October 1, 2009.

Marine Fisheries

S 1340 Sale of Blocks of Ten Day CRFLs

Provides for the purchase of 10 ten-day blocks of coastal recreational fishing licenses by owners of boats that are 23 feet or longer.

Open Space

S 1862 State Nature and Historic Preserve Removal

Removes 1.19 acres of Lake Waccamaw State Park from the State Nature and Historic Preserve and the State Parks System for a DOT right-of-way.

H 2496 State Park Systems Additions

Adds Bear Paw State Natural Area and Yellow Mountain State Natural Area to the State Parks System.

H 1889 Wildlife Land Property Tax Changes

Establishes land managed for wildlife conservation as a new class eligible for the lower present-use value tax rate currently applied to agricultural and forestry land.

Water Quality

S 1967 Improve Coastal Stormwater Management

Modifies the Coastal Stormwater Rules adopted by the Environmental Management Commission. Included among the significant changes to rule adopted by the EMC were:

Threshold for Obtaining a Permit

All non-residential development in the coastal counties will be required to have a stormwater permit if the development:

1. Adds 10,000 square feet or more of built-upon area;
2. Requires a sedimentation/erosion control plan; or
3. Requires a CAMA permit.

Residential development that is located more than ½ mile from shellfishing waters will require a stormwater permit if the project requires an erosion and sedimentation control plan or a CAMA permit (same as the existing coastal stormwater rules.)

A stormwater permit will also be required for some small-scale residential development located within ½ mile of shellfishing waters that would not otherwise require a stormwater permit. A one-time, non-renewable permit will be required for projects that add more than 10,000 square feet of built upon area if the built upon area exceeds 12% of the overall project area.

Stormwater Control for Limited Residential Development

The small-scale residential development located within ½ mile of shellfish waters will be required to control the stormwater runoff from the first 1.5 inches of rain through use of cisterns, rain barrels, rain gardens or other stormwater best management practices.

Wetlands

Coastal Area Management Act (CAMA) wetlands (defined in G.S. 113-229 and generally limited to wetlands capable of growing in areas influenced by saltwater) will be excluded from the area of the project site for purposes of calculating the percentage of impervious surface. (The EMC rule had excluded all wetlands from the calculations.)

Buffer Requirements

The legislation requires a 50-foot buffer (30 feet for redevelopment) for new nonresidential development and for new residential development that involves one acre or more of land-disturbing activity or requires a CAMA permit. The 50-foot buffer does not apply to small-scale residential development that requires only a one-time, nonrenewable stormwater permit. The small projects would continue to comply with CAMA buffer requirements and buffer requirements associated with specific water quality classifications (such as nutrient sensitive waters designations). The legislation recognizes buffer exemptions for certain types of projects such as urban waterfront development projects and upland marinas. In addition, all development projects can request a buffer variance from the Division of Water Quality.

Grandfathering Provisions

A number of exclusions are provided for projects that have already obtained one of a broad list of local or state permits or authorizations.

Rescission of Phase II Designations

The Phase II designations of Morehead City, Atlantic Beach and Washington are rescinded.

S 1046 Yadkin Project Study

Directs the Environmental Review Commission to study the impacts of a potential new fifty year Federal Energy Regulatory Commission (FERC) license to Alcoa Power for the dam on the Yadkin River. Directs DENR to consider the report in the evaluation of a 401 water quality certification associated with the FERC relicensing.

S 1885 Promote Private Compensatory Mitigation

Allows developers to use the state's Ecosystem Enhancement Program to meet wetlands and stream mitigation requirements only if a private wetlands mitigation bank is unable to provide the necessary mitigation.

S 1259 Public Water Service Warranties

Provides that water supplied by a public water system is not subject to certain warranties.

Water Supply

S 1872 Extend Water Allocation Study

Extends the Environmental Review Commission's study of water allocation and requires a final report by October 1, 2010.

H 2499 Improve Drought Preparedness and Response

Makes a number of changes to improve the state's ability to respond to drought, including:

- Requires the Department of Agriculture and Consumer Service to survey agricultural water users and provide, by county and watershed, information on water use by persons who withdraw 10,000 gallons of water or more per day for agricultural activities;
- Requires local government and large community water systems to adopt and implement water conservation measures in response to drought or other water shortage.
- Authorizes DENR to require water systems to report weekly on water usage during periods of drought;
- Requires separate water meters for new in-ground irrigation systems.
- Streamlines the process for declaring a water shortage emergency and moves some emergency powers from the Environmental Management Commission to the Secretary of Environment and Natural Resources;
- Provides additional criteria for water systems to be eligible for state funding, including metering all water usage and using a water rate structure that does not give residential water customers a lower per unit water rate as water use increases;
- Strengthens enforcement authority related to water use reporting, water shortage emergencies and water conservation measures;
- Directs the Commission for Public Health to adopt rules to authorize the use of gray water during periods of drought; and
- Prohibits private restrictive covenants from requiring irrigation of landscaping during periods of drought if a state or local government agency has imposed water conservation measures.

H 821 Specify Out of State Areas for IBT Notice

Modifies the existing Inter-basin Transfer statute to specifically identify the geographic area outside the state, and within an affected river basin, where notice of a proposed IBT

must be provided. The bill also provides for the ERC to study the delineation of major river basins and sub-basins as a component of the Water Allocation Study.

Waste Management

H 819 Electronic Recycling Amends/Add TVs

Provides for an electronics recycling program for televisions and delays the effective date of the entire program until January 1, 2010.

H 1134 Cleanup of Abandoned Manufactured Homes

Designates money from the Solid Waste Trust Fund to be used for grants to counties for the cleaning up and recycling of abandoned mobile homes.

H 2498 Underground Storage Tank Program Amendments 2008

Raises fees on tank owners to \$420 per year, in part, to assist with the cleanup of free product sites. The bill also requires the department to implement a pilot program using site specific cleanup standards.

H 2530 Solid Waste Tax Changes/Unsalable OTP Refund

Makes technical adjustments to the solid waste tip fee, including changing from a monthly to quarterly collection, establishing a bad debt deduction and adjusting how the proceeds from the tip fee are distributed between the counties and municipalities.

Environmental Health

H 2524 Disapprove Dyed Milk Rule

Disapproves the Dyed Milk Rule, as adopted by the NC Board of Agriculture; and mandates that all raw milk sold for animal consumption must include proper labeling stating "Not for Human Consumption."

Miscellaneous

S 845 Amend Environmental Laws/Technical Corrections 2008

The annual catch-all bill included a number of changes to environmental programs:

- Expands the contaminants required to be tested in the private well program beginning October 1, 2009;
- Temporarily limits EMC rulemaking with regard to coastal stormwater;
- Allows underground storage tank owners to pay fees under protest in certain circumstances;
- Adopts new impervious surface requirements for parking areas; and
- Directs DENR to aggressively compel responsible parties of groundwater contamination to assess and remediate the contamination.

H 2438 2008 Budget Technical Corrections

Directs the Department of Crime Control and Public Safety to fund 5 positions for floodplain mapping with existing funds until receipts from the floodplain mapping fee are sufficient to support them. Also makes clarifying, technical changes to the two-thirds bond act contained in the budget, which is being used to finance Green Square.

H 2431 Studies Act of 2008

The Studies bill contains a number of provisions authorizing the Environmental Review Commission to study:

- Costs and benefits of adopting the California motor vehicle emission standards in North Carolina;
- Feasibility of implementing a stormwater management program without requiring permits;
- Consolidation of environmental regulatory programs under a single, full-time environment commission;
- Permitting of wind energy facilities;
- Hazard disclosures in coastal real estate transactions;
- Phase-out of hog lagoons;
- Protection of conservation land from eminent domain;
- Creation of a recycling program for fluorescent lamps.

The Studies bill also directs that the Joint Legislative Commission on Seafood and Aquaculture may study the feasibility of increasing the production, processing and marketing of aquaculture products in the State.

Lastly, the Studies bill establishes a Legislative Study Commission on Urban Growth and Infrastructure Issues. Among the topics to be considered are options for fostering regional planning for water and transportation infrastructure. The Commission will report its recommendations to the 2009 General Assembly.

Budget Bill

H 2436 Modify Appropriations Act of 2007

The 2008 budget for the Department includes increased funding in a number of areas and establishes new positions in several divisions. Some of the highlights include:

- \$107 million in general obligation bonds for the construction of the Green Square complex, including the new DENR office building and Nature Research Center, in downtown Raleigh;
- \$50 million in certificates of participation for land conservation projects;
- \$20 million for Water Resource Development projects;
- \$2 million in recurring funding to expand the Oyster Sanctuary Program;
- \$2.7 million for the NC Zoo Polar Bear Exhibit Renovation and Expansion;

- \$600,000 for the NC Zoo Africa Pavilion Replacement Planning;
- \$341,305 in recurring funding for the landslide hazard mapping program;
- \$276,624 in recurring funding for the Environmental Stewardship Initiative;
- \$200,000 for NC Ag Cost Share Technical Assistance;
- \$72,633 in recurring funding for a Lagoon Conversion Program position;
- \$108,550 in recurring funding for swine farm compliance positions;
- \$500,000 in recurring funding for 8.62 DMF Commercial License positions;
- \$660,000 in non-recurring money to assist with drought, including interconnections, water audits and public education;
- \$482,384 in recurring funding for water supply planning and drought response;
- \$2.45 million for the Clean Water Revolving Fund match;
- \$5.5 million for the Drinking Water Revolving Fund match; and
- \$100 million in funding for the Clean Water Management Trust Fund

Special provisions in the budget bill include:

- Amendments to the language governing the Bernard Allen Emergency Drinking Water Fund;
- A new reporting requirement for the Inactive Hazardous Sites Program;
- Establishment of an agricultural drought response cost share program;
- Transfer of \$400,000 from the Dry Cleaning Solvent Cleanup Fund to be used for the cleanup of inactive hazardous sites and to provide alternative drinking water;
- Creation of eleven new inspector positions in the UST program;
- Redirecting \$750,000 from the Inspection and Maintenance Air Pollution Control Account to be used for litigation expenses in the Tennessee Valley Authority litigation;
- Transfer of the Prairie Ridge Land to DENR;
- Allocation of \$146,312 for river herring research from the Fishery Resource Grant Program;
- Direction to UNC and DENR to study the use and recycling of plastics;
- Putting the Forest Development Fund under continuation review;
- Establishment of the Conservation Easement Endowment Fund; and
- A requirement that the Division of Parks and Recreation study the feasibility of establishing a state park in McDowell County.