Water Resource Management Legislation of 2008 NC General Assembly

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Overview

- Expansion of IBT Notification Boundaries
- 2008 Drought Bill
Extended Interbasin Transfer Boundary

Basin Names:
1-1 Broad River
2-1 Haw River
2-2 Deep River
2-3 Cape Fear River
2-4 South River
2-5 NE Cape Fear
2-6 New River
3-1 Catawba River
3-2 South Fork Catawba River
4-1 Chowan River
4-2 Merna River
5-1 Nolichucky River
5-2 French Broad River
5-3 Pigeon River
6-1 Hiwassee River
7-1 Little Tennessee River
7-2 Tuskegee River
8-1 Savannah River
9-1 Lumber River
9-2 Big Shoal Creek
9-3 Waccamaw River
9-4 Shalotte River

Basin Numbers:
1-1 Neuse River
10-1 Neuse River
10-2 Cananda River
10-3 Trent River
11-1 New River
12-1 Albemarle River
13-1 Ocoee River
14-1 Roanoke River
15-1 Tar River
15-2 Fishing Creek
15-3 Pamlico River & Sound
16-1 Watauga River
17-1 White Oak River
18-1 Yadkin River
18-2 South Yadkin River
18-3 Uwharrie River
18-4 Rocky River

Legend:
- IST Boundary
- Counties
- Rivers
- Coast
Out of State Interbasin Transfer Notification

- §143-215.22L Regulation of Surface Water Transfers.
  - Contains notification requirements for both NC and adjacent states.
- Session laws 2008-125 and 2008-198 clarified the geographical boundaries for out of state notification.
  - The boundaries are defined by USGS eight-digit hydrologic cataloging units.
NC and Adjacent State Notification
Who Will Be Notified

- Newspaper of general circulation
  - Upstream and downstream of the withdrawal.
  - Each city or county in the source drainage basin.
- First-Class or Electronic Mail
  - Governing County or City bodies in the source and receiving basins.
  - Governing County or City bodies upstream or downstream of the withdrawal point.
  - Persons with a registered withdrawals and transfers in the source basin.
  - Persons holding an interbasin transfer certificate in the source basin.
  - Persons holding a NPDES discharge permit upstream or downstream of the withdrawal.
  - All state water management, water use, and environmental protection agencies and the office of the governor upstream or downstream of the withdrawal point.
  - Any person who submits to the applicant a written request to receive notices.
Overview of 2008 Drought Bill

- NC Session Law 2008-143.
- Contains new initiatives for drought response:
  - Registration & reporting
  - NC DENR approval of WSRP
  - Mandatory implementation of WSRP
  - Enhanced enforcement measures
  - Water efficiency standards
  - Other provisions
Registration & Reporting

- Registration of withdrawals req. w/in 2 months.
- Registration = Evidence of historic water use.
- Failure to register/update is civil penalty.
  - $100 per day (fail to reg) / $50 per day (fail to update)
- Ag Reporting
  - Dept of Ag provide annual survey report.
  - Ag users > 10,000 gallons per day.
  - Ag water use by county.
Water Shortage Response Plans (WSRP)

- DENR approval of water shortage response plan.
- Plans must contain:
  - Tiered levels of conservation based on severity.
  - Each tier results in more stringent conservation.
  - Does not meter/regulate private drinking wells.
Current NC County Drought Map
Implementation of More Stringent Measures

- NC DENR may req. implementation of more stringent conservation measures based on findings.

- Severe / Extreme / Exceptional Drought
  - System has not implemented any measures in WSRP.
  - Measures needed to minimize impacts on health & env.

- Extreme / Exceptional Drought
  - System has implemented WSRP.
  - After 30 days additional measures needed to minimize impacts on health, safety, and environment.
Written Findings

- Must consider:
  - Hydrological drought conditions
  - Drought forecast
  - Reductions achieved under measures in effect
  - Availability of other water supply sources
  - Other indicators of extent & severity drought
  - Economic impact of more stringent measures
  - Measures of other water users in 8-digit HUC
What can NC DENR require?

- If WSRP has not been implemented:
  - Begin measures in WSRP.
- If WSRP has been implemented:
  - Implementation of next tier of WSRP.
  - Implementation of next two levels may be required
    - After consultation with water system.
  - Determination that one level increase not enough.
Drought Designations

- Drought designation based on designation for county that water source is located within.
- NC DENR Secretary may approve designations that differ from USDM.
- County designation = highest designation for 25% of county land area.
Drought Designations

County Advisories
Based on the highest classification.

New County Advisories
Based on at least 25% of the land area.
Other Water Conservation Provisions

- Systems w/o WSRP must implement default measures in 15A NCAC 02E .0600.
- Systems must implement WSRP or default measures in D3 and D4 once legislation is signed.
- Appropriate measures must be implemented within 10 days of trigger in WSRP.
- Systems must report implementation of WSRP measures to NC DENR w/in 72 hours.
- NC DENR may require weekly reporting of water use in extreme and exceptional drought.
Water System Efficiency

- Systems shall require separate metering for new in-ground irrigation that is connected to system.
- Systems must meet criteria below for grants/loans:
  - Adequate rate structure
  - Leak detection & repair program
  - Approved water supply plan
  - Meters all water use that is practical
  - No lower rates for increased residential use
  - Evaluated future use of reclaimed water
  - Consumer education & conservation program
Enforcement

- Civil penalty $100 - $500 per day
  - Failure to report water use under 143-355(k).
- Civil penalty not more than $10,000 per month
  - Failure to implement required water conservation measures.
Other Provisions

- DENR approval authority over LWSP.
- Emergency powers shifted from EMC to Governor / DENR Secretary.
- NC EMC Rulemaking for water reuse.
- Overrides covenants for irrigation.
Effective Dates / Implementation

- WSRP & LWSP approval authority eff. when signed.
- Req to implement WSRP or default eff when signed.
- Registration civil penalties eff. Oct 1, 2008.
- Conservation penalties eff. Dec 1, 2008.
- Metering new in-ground irrigation eff. July 1, 2009.
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