

Report to the North Carolina General Assembly

Regulatory Flexibility during the Coronavirus Emergency

October 1, 2020



**NORTH CAROLINA DEPARTMENT OF
ENVIRONMENTAL QUALITY**

Regulatory Flexibility Report – October 1, 2020

On May 4th, 2020, the North Carolina General Assembly chaptered [Session Law 2020-3](#) as a legislative response to the Coronavirus Emergency. Included in Section 4.38 of this legislation are provisions to allow regulatory flexibility for entities regulated by various state agencies. This report, pursuant to Section 4.38.(c), documents efforts made by the North Carolina Department of Environmental Quality (DEQ) to exercise regulatory flexibility, as allowed by this legislation.

Four Divisions within DEQ reported having used regulatory flexibility allowed under Section 4.38. They are as follows:

Division of Energy, Mineral, and Land Resources (DEMLR):

DEMLR released two public memos pertaining to Municipal Separate Storm Sewer Systems that referenced Section 4.38. The first memo was released on March 17, 2020 and extended any response periods for submittals required as part of a Notice of Compliance, Notice of Deficiency, or Notice of Violation. This was retroactive to March 10th, 2020, when Governor Cooper declared a state of emergency, and was effective until the Governor rescinded the state of emergency. The second memo removed the pause, effective June 10, 2020.

Division of Coastal Management (DCM):

DCM extended the permit expiration dates for six different projects authorized under Coastal Area Management Act General Permits. These extensions were based on a case-by-case review by the DCM director, where the work (labor, materials, logistics), permit applicants, or their authorized agents were delayed partially or wholly due to Covid-19. To date, project extensions have been granted in Carteret, Craven, Currituck, Hyde, and Onslow counties. Most of these projects would otherwise be required to be completed within 120 days of permit issuance, or a new General Permit would need to be issued with a fee ranging from \$200 to \$400.

Division of Marine Fisheries (DMF):

DMF extended the deadline to renew commercial and for-hire fishing licenses by one month. Fiscal year 2019-2020 commercial fishing licenses, for-hire fishing licenses, and permits issued by the DMF with an expiration of June 30, 2020 remained valid until July 31, 2020. The extension did not apply to Coastal Recreational Fishing Licenses or Recreational Commercial Gear Licenses.

The Shellfish and Recreational Water Quality sampling program for recreational swimming water quality, originally scheduled to start on April 1st, was delayed until May 4th. During this delay, no swimming advisories were posted.

The on-board fishery observer program was halted. On-board observers are a requirement of the Sea Turtle and Sturgeon Incidental Take Reduction Permits (ITP) for anchored gills nets so that staff observe sea turtle and sturgeon interactions. NOAA Fisheries, who issued the permits, provided a waiver exempting the requirements for on-board observers. Alternative platform (observers on a separate state-owned vessel) was initially delayed, but now is being used for the ITP compliance measures.

Division of Waste Management (DWM):

DWM authored three regulatory letters that referenced Section 4.38. One letter granted, through August 1, 2020, a waiver for Mecklenburg County to allow yard trash to be disposed of in municipal solid waste landfills, in consideration of the inability to practice social distancing during conventional yard waste collection. The other letters extended operational permit expiration dates through August 1, 2020 for underground storage tanks used for fuel storage in two privately owned marinas.