

# Interim Report to the North Carolina General Assembly

---

## *Regulatory Flexibility during the Coronavirus Emergency*

December 1, 2020



**NORTH CAROLINA DEPARTMENT OF  
ENVIRONMENTAL QUALITY**

## Regulatory Flexibility Report – December 1, 2020

On September 4<sup>th</sup>, 2020, the North Carolina General Assembly chaptered [Session Law 2020-97](#) to provide additional legislative relief for the Coronavirus Emergency. Included in Section 3.20 of this legislation are provisions to allow regulatory flexibility for entities regulated by various state agencies. This report, pursuant to Section 3.20.(c), documents efforts made by the North Carolina Department of Environmental Quality (DEQ) between August 1, 2020 and November 1, 2020 to exercise regulatory flexibility, as allowed by this legislation.

Three Divisions within DEQ reported having used regulatory flexibility allowed under Section 3.20. They are as follows:

### Division of Coastal Management (DCM):

The DCM extended permit expiration dates for five 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):

The DMF halted the on-board fishery observer program. 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. National Oceanic and Atmospheric Administration Fisheries, who issued the permits, provided a waiver exempting the requirements for on-board observers. Alternative platform observations (observers on a separate state-owned vessel) have been implemented for the ITP compliance measures.

Additionally, DMF is waiving the 30-day application requirement for the Recreational Fishing Tournament License to Sell Fish. Marine Fisheries Commission rule requires tournament organizers to apply for the license 30 days prior to the starting date of the tournament if they intend to sell fish harvested during the tournament. This flexibility has been implemented to accommodate organizers whose tournaments are delayed, postponed, or forced to make late decisions on whether or not to hold the tournament.

### Division of Waste Management (DWM):

The DWM Underground Storage Tank (UST) Trust Fund requires that requests for reimbursement of funds be made within one year of the completion of the task. A task is a component of a petroleum release investigation and cleanup, such as monitoring well installation or contaminated soil removal. A reimbursement request was made by a facility (Facility) which had completed several tasks on May 29 and May 30 of 2019 and did not turn in a complete request

until June 20, 2020, over the 1-year statute of limitation. The Facility was denied approximately \$20,000 of reimbursement for tasks completed in 2019.

The Facility appealed DWM's denial of funds. DWM review of the request and subsequent correspondence determined that the Facility had difficulty receiving responses (receipts and certifications of completion) from subcontractors who performed the tasks. DWM has extended the statute of limitations by a month and approved an additional \$12,037 to be paid out of the UST Trust Fund.