

EMC Amendments to Coastal Stormwater Rule

Environmental Review Commission

January 23, 2008

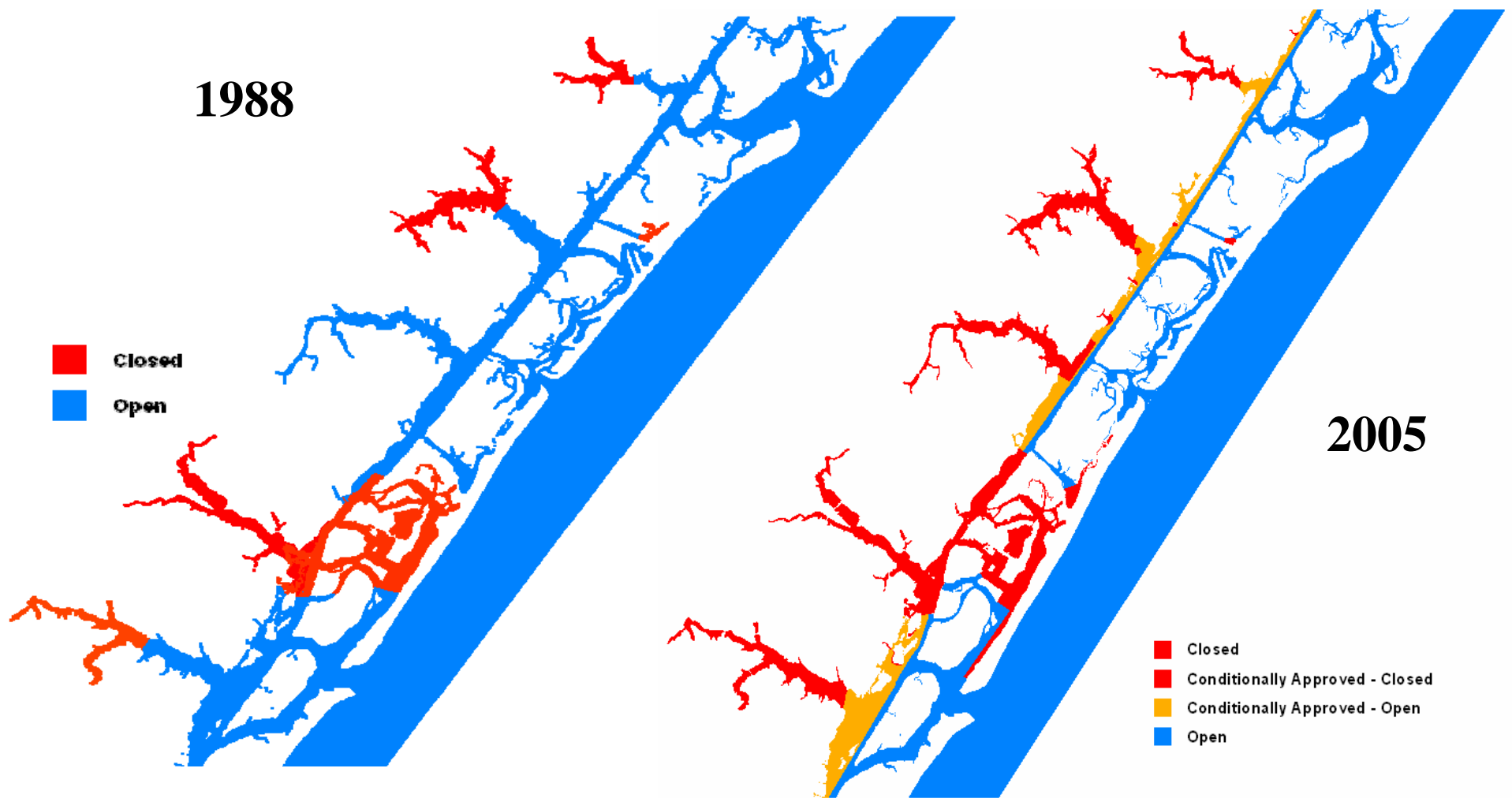


Status of Rulemaking Action

- Revisions adopted by EMC on Jan 10.
- RRC Review on Feb 21.
- Legislative Review.

Why did the EMC Revise this Rule?

DWQ study demonstrated inadequacies in the current rule.



What are the major changes?

Within ½ mile of shellfishing waters*

	Adopted		Existing
Low Density (BUA)	12%		25%
Control Req.- High Density	1-yr, 24-hr storm		Runoff from 1.5” of rain.

* Same requirements as the Phase 2 Rules.

What are the major changes?

Not within 1/2 mile of shellfish waters.*

	Adopted		Existing
Low Density (BUA)	24%		30%
Control Req.- High Density	Runoff from 1.5" of rain.	.	Runoff from 1.0" of rain.

* Same requirements as the Phase 2 Rules.

Most Controversial Aspects

- Expansion of setback from 30 to 50 feet.
- Prohibition of wetlands from imp surf. calculations.
- Proposed 10,000 square foot threshold for coverage.
 - Existing threshold is 1 acre.

Setback Revision

- Setback remains at 30 feet for redevelopment.
 - Facilitates rebuilding & reconfiguration of existing lots.
- Setback expanded to 50 feet for new development.
- 50 foot buffer already in place in the entire Neuse and Tar-Pamlico River Basins.

Wetlands & Impervious Surface Calculations

- EMC Adopted: No wetlands area included in future impervious surface calculations.
- Will make more projects “high density.”
- Concession: Allow stormwater controls other than infiltration within 1/2 mile of shellfishing waters.
- Negates concerns regarding 2 feet of separation from the high water table.

10,000 ft² Threshold Issue

- Lower threshold for coverage from 1 acre to 10,000 ft² for non-residential development.
- Retain 1 acre threshold for permit for residential dev.
- For residential projects $> 10,000$ ft², but < 1 acre, require 1 of the following 3:
 - Rain cisterns + Permeable pavement, or
 - Rain garden + Permeable pavement, or
 - Any other appropriate BMP (like on-site infiltration)
- Support sustainable development in Coastal NC.

Vested Rights Issue

- EMC amendments covered by:
 - DWQ stormwater redevelopment provision.
 - Statutory vested rights.
 - “Common law” vested rights.

Last Points

- Please Remember :
 - USMP alternative always available for local govts.
- Next Steps
 - RRC Review on Feb 21.
 - Legislative Review.

Information/Education on Rule Change

- Website initiated.
 - Contains complete Hearing Report, Rule, Other Info
 - Web address: <http://h2o.enr.state.nc.us/su/coastal.htm>
- Fact sheets developed.
 - Explains reasons for & impact of rule change.
 - Long & Brochure versions.
 - Available on website.



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