



This Bill Analysis reflects the contents of the bill as it was presented in committee.

HOUSE BILL 426: Various Environmental Amendments.

2023-2024 General Assembly

Committee:	Senate Agriculture, Energy, and Environment	Date:	April 30, 2024
Introduced by:	Reps. Gillespie, Clampitt, D. Hall, Pless	Prepared by:	Chris Saunders
Analysis of:	PCS to First Edition H426-CSTQ-40		Committee Counsel

OVERVIEW: *The Proposed Committee Substitute (PCS) to House Bill 426 would do all of the following:*

- *Direct the Coastal Resources Commission (CRC) to implement its previously adopted rule establishing minimum use standards for development in the Jockey's Ridge area of environmental concern until the CRC adopts permanent rules regulating the same subject matter.*
- *Effective August 1, 2024, require the Department of Administration, prior to granting an easement on State property for disposal of spoil materials dredged from navigable waters or dumping rights of spoil materials, to hold a public hearing in the county where the proposed easement is located and consult with the Joint Legislative Commission on Governmental Operations.*
- *Clarify that surfaces currently excluded from being considered built-upon area for purposes of State or local stormwater programs may not be treated as built-upon area under any other source of statutory authority, and add artificial turf installed over a pervious surface according to the manufacturer's instructions to the list of surfaces that are not considered built-upon area.*

CURRENT LAW AND BILL ANALYSIS:

DIRECT THE COASTAL RESOURCES COMMISSION TO IMPLEMENT A RULE DESIGNATING JOCKEY'S RIDGE STATE PARK AS AN AREA OF ENVIRONMENTAL CONCERN UNTIL PERMANENT RULES ARE ADOPTED

Since September 9, 1977, CRC rule 15A NCAC 07H .0507 (Jockey's Ridge Unique Coastal Geologic Formations Rule) designated Jockey's Ridge in Dare County as a unique coastal geologic formation area of environmental concern (AEC), defined the boundaries of the AEC, and established minimum use standards for development activities within the Jockey's Ridge AEC. G.S. 113A-113 grants the CRC the authority to designate several types of areas as AECs, including areas containing unique geological formations:

"§ 113A-113. Areas of environmental concern; in general.

(a) The Coastal Resources Commission shall by rule designate geographic areas of the coastal area as areas of environmental concern and specify the boundaries thereof, in the manner provided in this Part.

(b) The Commission may designate as areas of environmental concern any one or more of the following, singly or in combination:

...

Jeffrey Hudson
Director



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- (4) Fragile or historic areas, and other areas containing environmental or natural resources of more than local significance, where uncontrolled or incompatible development could result in major or irreversible damage to important historic, cultural, scientific or scenic values or natural systems, which may include:

...

- g. Areas containing unique geological formations, as identified by the State Geologist; and

...."

In 2022, as part of the periodic review of existing rules process in the Administrative Procedure Act (G.S. 150B-21.3A), the Rules Review Commission objected to the Jockey's Ridge Unique Coastal Geologic Formations Rule. The rule was returned to the CRC on October 5, 2023, and has not been effective since that date. On April 24, 2024, the CRC voted to initiate rulemaking on a permanent rule to replace the Jockey's Ridge Unique Coastal Geologic Formations Rule.

Section 1 of the PCS would direct the CRC to implement the sections of the Jockey's Ridge Unique Coastal Geologic Formations Rule related to designation of the Jockey's Ridge AEC and the minimum use standards for development activities within the Jockey's Ridge AEC as if the Jockey's Ridge Unique Coastal Geologic Formations Rule were effective until the CRC adopts a permanent rule to replace the Jockey's Ridge Unique Coastal Geologic Formations Rule.

REQUIRE THE DEPARTMENT OF ADMINISTRATION TO HOLD A PUBLIC HEARING AND CONSULT WITH THE JOINT LEGISLATIVE COMMISSION ON GOVERNMENTAL OPERATIONS PRIOR TO GRANTING CERTAIN EASEMENTS ON STATE PROPERTY

The Department of Administration is authorized to grant easements, rights-of-way, dumping rights, and other interests on State lands for the purpose of cooperating with the federal government, utilizing the natural resources of the State, or otherwise serving the public interest. Any conveyance of these interests must be approved by the Governor and Council of State.

Section 2 of the PCS would require the Department of Administration, before approving a proposed easement on State property for disposal of dredge spoil materials, or dumping rights for dredge spoil materials, to (i) hold a public hearing in the county where the proposed easement is located and (ii) following the public hearing, submit the proposed easement for consultation with the Joint Legislative Commission on Governmental Operations.

This section becomes effective August 1, 2024, and applies to requests for proposed dispositions submitted to the Department of Administration for approval on or after that date.

CLARIFY THE APPLICABILITY OF STATUTORY BUILT-UPON AREA REQUIREMENTS FOR STATE AND LOCAL GOVERNMENT STORMWATER PROGRAMS AND SPECIFY THAT CERTAIN ARTIFICIAL TURF IS NOT BUILT-UPON AREA

Under current law, "built-upon area" is defined as "impervious surface and partially impervious surface to the extent that the partially impervious surface does not allow water to infiltrate through the surface and into the subsoil." Several specific surfaces are explicitly excluded from being considered built-upon area for purposes of State and local stormwater programs. However, some local governments may use other sources of statutory authority to classify these surfaces as built-upon area.

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Section 3 would add artificial turf, installed over a pervious surface according to the manufacturer's specifications, to the list of surfaces not considered built-upon area, and clarify that except as specifically required by federal law, a local government ordinance, comprehensive plan, or stormwater program may not have a definition of "built-upon area" or impervious surface that does not comply with the statutory list of surfaces that are not built-upon area.

EFFECTIVE DATE: Except as otherwise provided, this act is effective when it becomes law.