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

HOUSE BILL 873: DEQ Agency Bill.

2025-2026 General Assembly

Committee:	House Agriculture and Environment. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	**Date:**	April 30, 2025
Introduced by:	Rep. K. Hall	**Prepared by:**	Jeff Cherry Staff Attorney
Analysis of:	PCS to First Edition H873-CSMH-3		

OVERVIEW: House Bill 873 would make various changes to statutes governing environmental matters, as recommended by the Department of Environmental Quality (DEQ or Department).

BILL ANALYSIS:

USE OF TAX-MAINTAINED PROPERTIES FOR PUBLIC HEARINGS

Section 1 would provide that DEQ may use public buildings and public schools for public hearings without charge, except for custodial and utility fees. Use of such buildings would not, however, be permitted at times during the school day, or otherwise interfere with normal school activities or functions normally. In addition, DEQ's use of such buildings would be subject to reasonable rules and regulations of the governing body having control over such buildings.

CLARIFY REQUIREMENTS FOR HAZARDOUS WASTE RECYCLING

Hazardous waste disposal facilities are subject to permitting and other regulatory requirements under the statutes.

Section 2 would provide that facilities that receive shipments of hazardous waste from off-site for recycling and processing are subject to permitting and other regulatory requirements applicable to hazardous waste facilities.

MODIFY PAYMENT OF BROWNFIELDS PROPERTY REUSE ACT FEES

A brownfields site is any real property that is abandoned, idled, or underutilized where environmental contamination, or perceived environmental contamination, hinders redevelopment. The Brownfields Property Reuse Act (Act) of 1997 was enacted to encourage and facilitate redevelopment of these sites by removing barriers to redevelopment posed by a PD's potential liability for clean-up costs. To be eligible for participation in the Brownfields Program (Program), a PD must not have caused or contributed to contamination at a site. The Act does not obviate practical or necessary remediation of properties under any State or federal cleanup program, but it does authorize the Department to work with PDs toward the safe redevelopment of sites, and to provide PDs regulatory flexibility and liability protection that would not be available to parties who actually caused or contributed to contamination at a site.

If a site is included in the Brownfields Program, the Department will enter into an agreement with the developer that is in effect a covenant not-to-sue contingent on the developer making the site suitable for the reuse proposed. Additionally, a brownfields agreement obtained from the Program entitles the

developer to a property tax exclusion on the improvements made to the property for a period of five years, which can more than pay for assessment and cleanup activities on many projects. Site remedies (cleanup requirements) under the Program are also less costly and time consuming than they would be for a party who caused or contributed to the contamination, as site remedies under the Brownfields Program are designed to prevent exposure and make the site suitable for reuse, rather than meet environmental standards required under the traditional cleanup programs.

A PD must pay a fee at the time they submit a proposed brownfields agreement for Department approval, and a fee upon entering a brownfields agreement to cover the full cost to the Department and the Department of Justice of all activities related to the brownfields agreement, including negotiation of the brownfields agreement, public notice and community involvement, and monitoring the implementation of the brownfields agreement.

Section 3 would:

- Make various changes to the process and timing of payment of the fees established under current law. Additionally, the bill would establish a new fee applicable to a PD subject to a recorded Notice of Brownfields Property who is out of compliance with the statutory requirements regarding the Notice, which would be payable to the Department and the Department of Justice in an amount that would be sufficient to cover the costs to the State to enforce or otherwise seek to correct the noncompliance.
- Modify the language governing the partial exclusion from taxation to provide that the exclusion would apply to qualifying improvements made after the Department provides written confirmation that the proposed improvements are eligible for a brownfields agreement (rather than improvements made after a brownfields agreement is executed).

SOLID WASTE BENEFICIAL REUSE CLARIFICATION

"Recovered material" is defined as "material that has known recycling potential, can be feasibly recycled, and has been diverted or removed from the solid waste stream for sale, use, or reuse." Under current law, recovered material is not subject to regulation as solid waste, but must be managed as a valuable commodity in a manner consistent with the desired use or end use, subject to several conditions.

Section 4 would clarify that recovered materials are not subject to permitting requirements for solid waste. DEQ would be authorized to require any person who owns or has control over such materials to obtain a beneficial use determination from the agency. The person would submit an application to DEQ, who may either authorize management of a specified type of nonhazardous solid waste at a site other than a permitted solid waste management facility or issue a beneficial use determination with appropriate conditions for use of specific types of solid waste in construction, land application, or other applications. DEQ could require submittal of a demonstration that the solid waste is being managed in a manner to protect public health or the environment, and may require periodic testing or conditions to ensure that the product or by-products of the materials are not discharged into any land or water in such a way as to enter the environment and threaten the public health and safety. Beneficial use approvals would expire after five years at most, but could be renewed.

This section would become effective January 1, 2026.

EXPAND ELIGIBILITY FOR TARGETED INTEREST RATES ON WATER AND WASTEWATER PROJECTS

Pursuant to Chapter 159G of the General Statutes, DEQ administers a number of grant and loan programs for planning, design and construction of critical water infrastructure, including the following programs: the Clean Water State Revolving Fund (CWSRF), the Drinking Water State Revolving Fund (DWSRF), the Drinking Water Reserve, and the Wastewater Reserve. The statutes provide that the interest rate for a loan from these programs may not exceed the lesser of 4% or one half the prevailing national market rate for tax-exempt general obligation debt of similar maturities derived from a published indicator. When recommended by DEQ, however, the Local Government Commission may set an interest rate for a loan for a targeted interest rate project at a rate that is lower than the standard rate to achieve the purpose of the target. Projects awarded CWSRF or DWSRF loans are currently only eligible for a targeted interest rate if they are in a category for which federal law encourages a special focus.

Section 5 would extend the eligibility for targeted interest rate projects to those projects that are in a category for which DEQ encourages a special focus (in addition to federal law).

REVISE STEWARDSHIP LAWS
A proposed development that would impact streams or wetlands may require compensatory mitigation for State or federal permitting. Options for compensatory mitigation include:

- Mitigation banks: Applicant satisfies the mitigation requirement by purchasing mitigation credits from an approved mitigation bank.
- In-lieu fee mitigation: Applicant satisfies the mitigation requirement by purchasing mitigation credits through the N.C. Division of Mitigation Services.
- Permittee Responsible mitigation: Applicant satisfies the mitigation requirement themselves, either at the project site or at an off-site location.

DEQ is tasked with the coordination of compensatory mitigation in the State. The statutes direct DEQ, among other things, to work pursue mitigation for diverse habitats, and to work work in cooperation with the Wildlife Resources Commission to ensure that all purchased mitigation lands or conservation easements on these lands "maximize opportunities for public recreation, including hunting, and promote wildlife and biological diversity." DEQ's Stewardship Program is directed to main maintain an inventory of all its land holdings and determine how many of those holdings are potential wildlife habitats, either as currently held or with some modification. Further the statutes provide that if private individuals, corporations, or other nongovernmental entities wish to purchase any of the inventory of land suitable for wildlife habitat, then the Stewardship Program must issue a request for proposal to all interested respondents for the purchase of the land. The State must accept a proposal and proceed to dispose of the land only if the Department determines that the proposal meets certain requirements:

Section 6 would:

- Direct DEQ to "prioritize management practices that promote wildlife and biological diversity and, where feasible, provide opportunities for public recreation, including hunting by property owners and lessees."
- Require the Stewardship Program to maximize use of mitigation land holdings as ecological research sites and for hunting leases when the Stewardship Program determines it is feasible to do so.
- Eliminate the language concerning purchase and sale of inventory in DEQ's Stewardship Program.

EFFECTIVE DATE: Except as otherwise provided, this bill would eeffective when it becomes law.