



A Brief History of Environmental Law

Federal, state and local governments pass environmental laws and regulations to protect human health and the environment.

The U.S. Environmental Protection Agency (U.S. EPA) enforces federal environmental laws, although other agencies also have roles. State environmental protection agencies enforce federal and state environmental laws. In South Carolina, the S.C. Department of Health and Environmental Control (DHEC) writes and enforces environmental laws and regulations.

South Carolina has a long history of environmental regulation. In 1671, the Colonial Assembly passed a law that is still in effect: "Should any person cause to flow into or be cast into any of the creeks, streams or inland waters of this State any impurities that are poisonous to fish or destructive to their spawn, such person shall, upon conviction, be punished."

As environmental awareness increased over the years, so did the passage of laws designed to protect human health and the environment. One of the first federal environmental laws was the River and Harbor Act of 1899. It established the legal basis for banning the pollution of navigable waterways. The Oil Pollution Act of 1924 prohibited oil discharges into coastal water. The Water Pollution Control Act of 1948 authorized the U.S. Public Health Service to work with other federal, state and local entities to develop comprehensive programs to eliminate or reduce the amount of pollution discharged into rivers, creeks, lakes and other waterways. In 1950, the S.C. General Assembly enacted the first part of what is now the S.C. Pollution Control Act. It authorized the S.C. Board of Health to regulate sources of water pollution. In the 1970s, major U.S. environmental laws included the Clean Air Act (1970), Clean Water Act (1972) and Safe Drinking Water Act (1974). In addition, the U.S. EPA was created in 1970.

The Solid Waste Disposal Act of 1965, the first federal law regarding solid waste management, established the minimum federal guidelines for solid waste disposal. The S.C. Board of Health enacted regulations in 1971 that prohibited open dumps and established standards for solid waste disposal sites. The federal Resource Conservation and Recovery Act of 1976 (RCRA – pronounced "rick-rah") encouraged states to develop comprehensive solid waste management plans that would minimize waste and increase recycling. RCRA regulates all types of waste

including hazardous, industrial and solid waste. It was amended in 1991. This amendment (informally known as Subtitle D) outlines strict requirements for the location, design, operation and closure of municipal solid waste (MSW) landfills.

The amendment gave state and local governments primary responsibilities for planning, permitting, regulating and enforcing federal laws and regulations for the management of municipal solid waste and non-hazardous industrial solid waste. The U.S. EPA must authorize state programs.

South Carolina's detailed regulations are designed to carry out the S.C. Pollution Control Act, the S.C. Safe Drinking Water Act, the S.C. Solid Waste Policy and Management Act, the S.C. Hazardous Waste Management Act, the S.C. Atomic Energy and Radiation Control Act, the S.C. Coastal Zone Management Act and other statutes.

Many cities, towns and industries have National Pollution Discharge Elimination System Permits for the discharge of treated wastewater. Local Councils of Governments, made up of county and municipal government representatives, develop comprehensive plans for wastewater treatment and disposal to ensure that as communities grow, treatment capacity will be available to meet increased demand.

Drinking water wells must be built to provide safe, drinkable water and prevent the introduction of contaminants into the groundwater supply. Underground storage tanks for gasoline and heating fuel must be tested regularly for leaks. Before the passage of the State Underground Petroleum Environmental Response Bank Act of 1988, many fuel tanks leaked and contaminated groundwater that people depended on for drinking water.

Many industries have air permits that limit the amount of pollutants that can be released into the air. State and local governments work closely to reduce the amount of air pollutants that can contribute to the formation of ground-level ozone. Many businesses and industries that use cleaning solvents, paints and other chemicals must get RCRA permits to ensure that hazardous waste is stored, treated and disposed of properly.

South Carolina passed its first comprehensive law regarding solid waste management in 1991. The S.C.

Solid Waste Policy and Management Act (Act) set up DHEC's solid waste regulation development, compliance and enforcement. The Act also set up DHEC's Office of Solid Waste Reduction and Recycling to provide technical assistance, grant funding and educational programs to local governments, schools, colleges and universities and the public.

The Act also outlines specific requirements for local governments, establishes the Solid Waste Trust Fund and grant program, and requires state agencies to report annually on their recycling activities and purchase of recycled goods and supplies. In addition, the Act set goals to recycle 35 percent of the MSW stream and to reduce MSW generation to 3.5 pounds per person per day. Both goals are to be met by 2005.

Environmental law has come a long way since its beginnings. Environmental law is a specialty in both law schools and law firms. Many private companies are set up to consult or provide technical assistance to other companies and governments to make sure they are following particular environmental laws and regulations.

Major Federal Environmental Laws

The National Environmental Policy Act (1969) is one of the first laws written to establish a broad national framework for protecting the environment. The basic policy assures that all branches of government give proper consideration to the environment prior to undertaking any major federal action that significantly affects the environment. The requirements are invoked when airports, highways, military complexes, buildings and other federal activities are proposed. The most visible requirements of the law, required of all federal agencies, are Environmental Assessments and Environmental Impact Statements. These analyze how the project or action will most likely affect the environment and suggest a range of options to the proposed action.

The Clean Air Act (1970) regulates air emissions from area, stationary and mobile (cars and trucks) sources. The law authorized the U.S. EPA to establish National Ambient Air Quality Standards (NAAQS).

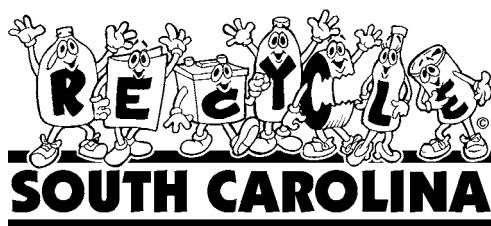
The Clean Water Act (1972) establishes the basic structure for regulating the discharge of pollutants into the waters of the United States. The law gave the U.S. EPA authority to develop pollution control programs such as setting wastewater standards for industry. The law also authorized the setting of water quality standards for all contaminants in surface waters. The law made it unlawful for any person to discharge any pollutant from a point source into navigable waters unless a permit was obtained.

The Safe Drinking Water Act (1974) protects the quality of drinking water. The law focuses on all waters actually or potentially designed for drinking use, whether from above ground or underground sources.

The Resource Conservation and Recovery Act (1976) gives the U.S. EPA authority to control hazardous waste from "cradle to grave." This includes the generation, transportation, treatment, storage and disposal of hazardous waste. This law also set a framework for the management of non-hazardous waste. In 1986, the act was amended to address environmental problems that could result from underground storage tanks containing petroleum and other hazardous substances. This law also is known as RCRA.

The Comprehensive Environmental Response, Compensation and Liability Act (1980) provides for a federally funded "Superfund" to clean up uncontrolled or abandoned hazardous waste sites as well as accidents, spills and other releases of pollutants into the environment. The law gives the U.S. EPA the authority to locate the parties responsible for any release and assure their cooperation in the cleanup. This law also is known as CERCLA (pronounced "sir-cla").

The Pollution Prevention Act (1990) focuses industry, government and public attention on reducing pollution through cost-effective changes in production, operation and raw material use. Pollution prevention also includes other practices such as source reduction, recycling and sustainable agriculture that increase efficiency in the use of energy, water and other natural resources.



Office of Solid Waste
Reduction & Recycling
1-800-768-7348 ● www.scdhec.gov/recycle

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