A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE THE DEPARTMENT OF ENVIRONMENT AND NATURAL
RESOURCES TO TRANSFER CERTAIN ENVIRONMENTAL PERMITS
ASSOCIATED WITH PROPERTY DEVELOPMENT WHEN THE ORIGINAL
PROPERTY OWNER IS UNWILLING OR UNABLE TO AGREE TO THE PERMIT
TRANSFER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-214.7 is amended by adding a new subsection to read:

"§ 143-214.7. Stormwater runoff rules and programs.

(5) The Department may transfer a permit issued pursuant to this section without the
consent of the permit holder to a successor-owner of the property on which the permitted
activity is occurring or will occur as provided in this subsection.

(1) The Department may transfer a permit if all of the following conditions are met:

a. The successor-owner of the property submits to the Department a
written request for the transfer of the permit.

b. The Department finds all of the following:

1. The permit holder is one of the following:

   I. A natural person who is deceased.

   II. A corporation that has been dissolved.

   III. A person who has been lawfully divested of title to the
       property on which the permitted activity is occurring
       or will occur.

   IV. A person who has sold the property on which the
       permitted activity is occurring or will occur.

2. The successor-owner holds title to the property on which the permitted
   activity is occurring or will occur.

3. The successor-owner is the sole claimant of the right to
   engage in the permitted activity.

4. There will be no substantial change in the permitted activity.

(2) The permit holder shall comply with all terms and conditions of the permit
until such time as the permit is transferred.

(3) The successor-owner shall comply with all terms and conditions of the
permit once the permit has been transferred.
(4) Notwithstanding changes to law made after the original issuance of the permit, the Department may not impose new or different terms and conditions in the permit without the prior express consent of the successor-owner.

SECTION 2. G.S. 143-215.1 is amended by adding a new subsection to read:

"§ 143-215.1. Control of sources of water pollution; permits required.

..."

SECTION 3. G.S. 113A-54.1 reads as rewritten:

"§ 113A-54.1. Approval of erosion control plans.

(a) A draft erosion and sedimentation control plan must contain the applicant's address and, if the applicant is not a resident of North Carolina, designate a North Carolina agent for the purpose of receiving notice from the Commission or the Secretary of compliance or noncompliance with the plan, this Article, or any rules adopted pursuant to this Article. Except as provided in subsection (a1) of this section, if the applicant is not the owner of the land to be disturbed, the draft erosion and sedimentation control plan must include the owner's written consent for the applicant to submit a draft erosion and sedimentation control plan and to conduct the anticipated land-disturbing activity. The Commission shall approve, approve with modifications, or disapprove a draft erosion and sedimentation control plan for those land-disturbing activities for which prior plan approval is required within 30 days of receipt. The Commission shall condition approval of a draft erosion and sedimentation control plan..."
upon the applicant's compliance with federal and State water quality laws, regulations, and rules. Failure to approve, approve with modifications, or disapprove a completed draft erosion and sedimentation control plan within 30 days of receipt shall be deemed approval of the plan.

If the Commission disapproves a draft erosion and sedimentation control plan or a revised erosion and sedimentation control plan, it must state in writing the specific reasons that the plan was disapproved. Failure to approve, approve with modifications, or disapprove a revised erosion and sedimentation control plan within 15 days of receipt shall be deemed approval of the plan. The Commission may establish an expiration date for erosion and sedimentation control plans approved under this Article.

(a1) If the applicant is not the owner of the land to be disturbed and the anticipated land-disturbing activity involves the construction of utility lines for the provision of water, sewer, gas, telecommunications, or electrical service, the draft erosion and sedimentation control plan may be submitted without the written consent of the owner of the land, so long as the owner of the land has been provided prior notice of the project.

(b) If, following commencement of a land-disturbing activity pursuant to an approved erosion and sedimentation control plan, the Commission determines that the plan is inadequate to meet the requirements of this Article, the Commission may require any revision of the plan that is necessary to comply with this Article. Failure to approve, approve with modifications, or disapprove a revised erosion and sedimentation control plan within 15 days of receipt shall be deemed approval of the plan.

(c) The Commission shall disapprove an erosion and sedimentation control plan if implementation of the plan would result in a violation of rules adopted by the Environmental Management Commission to protect riparian buffers along surface waters. The Director of the Division of Energy, Mineral, and Land Resources may disapprove an erosion and sedimentation control plan or disapprove a transfer of a plan under subsection (d1) of this section upon finding that an applicant or a parent, subsidiary, or other affiliate of the applicant:

1. Is conducting or has conducted land-disturbing activity without an approved plan, or has received notice of violation of a plan previously approved by the Commission or a local government pursuant to this Article and has not complied with the notice within the time specified in the notice;
2. Has failed to pay a civil penalty assessed pursuant to this Article or a local ordinance adopted pursuant to this Article by the time the payment is due;
3. Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any criminal provision of a local ordinance adopted pursuant to this Article; or
4. Has failed to substantially comply with State rules or local ordinances and regulations adopted pursuant to this Article.

(d) In the event that an erosion and sedimentation control plan or a transfer of a plan is disapproved by the Director pursuant to subsection (c) of this section, the Director shall state in writing the specific reasons that the plan was disapproved. The applicant or the proposed transferee may appeal the Director's disapproval of the plan to the Commission. For purposes of this subsection and subsection (c) of this section, an applicant's record or a proposed transferee's record may be considered for only the two years prior to the application date.

(d1) The Department may transfer an erosion and sedimentation control plan approved pursuant to this section without the consent of the plan holder to a successor-owner of the property on which the permitted activity is occurring or will occur as provided in this subsection.

1. The Department may transfer a plan if all of the following conditions are met:
2. a. The successor-owner of the property submits to the Department a written request for the transfer of the plan and an authorized statement of financial responsibility and ownership.
b. The Department finds all of the following:

1. The plan holder is one of the following:
   I. A natural person who is deceased.
   II. A corporation that has been dissolved.
   III. A person who has been lawfully divested of title to the property on which the permitted activity is occurring or will occur.
   IV. A person who has sold the property on which the permitted activity is occurring or will occur.

2. The successor-owner holds title to the property on which the permitted activity is occurring or will occur.

3. The successor-owner is the sole claimant of the right to engage in the permitted activity.

4. There will be no substantial change in the permitted activity.

(2) The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.

(3) The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.

(4) Notwithstanding changes to law made after the original issuance of the plan, the Department may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner. Nothing in this subsection shall prevent the Commission from requiring a revised plan pursuant to G.S. 113A-54.1(b).

(e) The landowner, the financially responsible party, or the landowner's or the financially responsible party's agent shall perform an inspection of the area covered by the plan after each phase of the plan has been completed and after establishment of temporary ground cover in accordance with G.S. 113A-57(2). The person who performs the inspection shall maintain and make available a record of the inspection at the site of the land-disturbing activity. The record shall set out any significant deviation from the approved erosion control plan, identify any measures that may be required to correct the deviation, and document the completion of those measures. The record shall be maintained until permanent ground cover has been established as required by the approved erosion and sedimentation control plan. The inspections required by this subsection shall be in addition to inspections required by G.S. 113A-61.1."

SECTION 4. G.S. 113A-61 reads as rewritten:

"§ 113A-61. Local approval of erosion and sedimentation control plans.

(a) For those land-disturbing activities for which prior approval of an erosion and sedimentation control plan is required, the Commission may require that a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60 require the applicant to submit a copy of the erosion and sedimentation control plan to the appropriate soil and water conservation district or districts at the same time the applicant submits the erosion and sedimentation control plan to the local government for approval. The soil and water conservation district or districts shall review the plan and submit any comments and recommendations to the local government within 20 days after the soil and water conservation district received the erosion and sedimentation control plan or within any shorter period of time as may be agreed upon by the soil and water conservation district and the local government. Failure of a soil and water conservation district to submit comments and recommendations within 20 days or within agreed upon shorter period of time shall not delay final action on the proposed plan by the local government.

(b) Local governments shall review each erosion and sedimentation control plan submitted to them and within 30 days of receipt thereof shall notify the person submitting the
plan that it has been approved, approved with modifications, or disapproved. A local
government shall only approve a plan upon determining that it complies with all applicable
State and local regulations for erosion and sedimentation control.

(b1) A local government shall condition approval of a draft erosion and sedimentation
control plan upon the applicant's compliance with federal and State water quality laws,
regulations, and rules. A local government shall disapprove an erosion and sedimentation
control plan if implementation of the plan would result in a violation of rules adopted by the
Environmental Management Commission to protect riparian buffers along surface waters. A
local government may disapprove an erosion and sedimentation control plan or disapprove a
transfer of a plan under subsection (b3) of this section upon finding that an applicant or a
parent, subsidiary, or other affiliate of the applicant:

(1) Is conducting or has conducted land-disturbing activity without an approved
plan, or has received notice of violation of a plan previously approved by the
Commission or a local government pursuant to this Article and has not
complied with the notice within the time specified in the notice.

(2) Has failed to pay a civil penalty assessed pursuant to this Article or a local
ordinance adopted pursuant to this Article by the time the payment is due.

(3) Has been convicted of a misdemeanor pursuant to G.S. 113A-64(b) or any
criminal provision of a local ordinance adopted pursuant to this Article.

(4) Has failed to substantially comply with State rules or local ordinances and
regulations adopted pursuant to this Article.

(b2) In the event that an erosion and sedimentation control plan or a transfer of a plan is
disapproved by a local government pursuant to subsection (b1) of this section, the local
government shall so notify the Director of the Division of Energy, Mineral, and Land
Resources within 10 days of the disapproval. The local government shall advise the applicant
or the proposed transferee and the Director in writing as to the specific reasons that the plan
was disapproved. Notwithstanding the provisions of subsection (c) of this section, the applicant
may appeal the local government's disapproval of the plan directly to the Commission. For
purposes of this subsection and subsection (b1) of this section, an applicant's record or the
proposed transferee's record may be considered for only the two years prior to the application
date.

(b3) A local government administering an erosion and sedimentation control program
may transfer an erosion and sedimentation control plan approved pursuant to this section
without the consent of the plan holder to a successor-owner of the property on which the
permitted activity is occurring or will occur as provided in this subsection.

(1) The local government may transfer a plan if all of the following conditions
are met:

a. The successor-owner of the property submits to the local government
a written request for the transfer of the plan and an authorized
statement of financial responsibility and ownership.

b. The local government finds all of the following:

1. The plan holder is one of the following:
   I. A natural person who is deceased.
   II. A corporation that has been dissolved.
   III. A person who has been lawfully divested of title to the
        property on which the permitted activity is occurring
        or will occur.
   IV. A person who has sold the property on which the
       permitted activity is occurring or will occur.

2. The successor-owner holds title to the property on which the
   permitted activity is occurring or will occur.
The successor-owner is the sole claimant of the right to engage in the permitted activity.

There will be no substantial change in the permitted activity.

The plan holder shall comply with all terms and conditions of the plan until such time as the plan is transferred.

The successor-owner shall comply with all terms and conditions of the plan once the plan has been transferred.

Notwithstanding changes to law made after the original issuance of the plan, the local government may not impose new or different terms and conditions in the plan without the prior express consent of the successor-owner.

Nothing in this subsection shall prevent the local government from requiring a revised plan pursuant to G.S. 113A-54.1(b).

The disapproval or modification of any proposed erosion and sedimentation control plan by a local government shall entitle the person submitting the plan to a public hearing if the person submits written demand for a hearing within 15 days after receipt of written notice of the disapproval or modification. The hearings shall be conducted pursuant to procedures adopted by the local government. If the local government upholds the disapproval or modification of a proposed erosion and sedimentation control plan following the public hearing, the person submitting the erosion and sedimentation control plan is entitled to appeal the local government's action disapproving or modifying the plan to the Commission. The Commission, by regulation, shall direct the Secretary to appoint such employees of the Department as may be necessary to hear appeals from the disapproval or modification of erosion and sedimentation control plans by local governments. In addition to providing for the appeal of local government decisions disapproving or modifying erosion and sedimentation control plans to designated employees of the Department, the Commission shall designate an erosion and sedimentation control plan review committee consisting of three members of the Commission. The person submitting the erosion and sedimentation control plan may appeal the decision of an employee of the Department who has heard an appeal of a local government action disapproving or modifying an erosion and sedimentation control plan to the erosion and sedimentation control plan review committee of the Commission. Judicial review of the final action of the erosion and sedimentation control plan review committee of the Commission may be had in the superior court of the county in which the local government is situated.

(d) Repealed by Session Laws 1989, c. 676, s. 4."

SECTION 5. This act is effective when it becomes law.
House Bill 480

Short Title: Environmental Permitting Reform. (Public)

Sponsors: Representatives Millis, Moffitt, Catlin, and Hardister (Primary Sponsors).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Environment, if favorable, Regulatory Reform.

April 1, 2013

A BILL TO BE ENTITLED

AN ACT TO PROVIDE REGULATORY CERTAINTY FOR NORTH CAROLINA BY REQUIRING THE DEVELOPMENT OF MINIMUM DESIGN CRITERIA FOR STORMWATER PERMITS AND EROSION AND SEDIMENTATION CONTROL PLANS TO GUIDE REGULATORY AGENCIES IN PERMIT ISSUANCE AND PLAN APPROVAL AND TO REFORM THE PERMITTING PROCESS TO ALLOW A FAST-TRACK PERMITTING PROCESS FOR APPLICATIONS AND PLAN SUBMITTALS CERTIFIED BY A PROFESSIONAL ENGINEER TO BE IN COMPLIANCE WITH THE MINIMUM DESIGN CRITERIA.

The General Assembly of North Carolina enacts:

SECTION 1. (a) Stormwater. – The Department of Environment and Natural Resources shall develop Minimum Design Criteria for permits issued by the stormwater runoff permitting programs authorized by G.S. 143-214.7. The Minimum Design Criteria shall include all requirements for siting, site preparation, design and construction, and post-construction monitoring and evaluation necessary for the Department to issue a stormwater permit.

SECTION 1. (b) Erosion and Sedimentation Control. – The Department of Environment and Natural Resources shall develop Minimum Design Criteria for erosion and sedimentation control plans issued by the Department and local governments under the authority of Article 4 of Chapter 113A of the General Statutes. The Minimum Design Criteria shall include all requirements for siting, site preparation, design and construction, and post-construction monitoring and evaluation necessary for the Department or a local government stormwater program to approve an erosion and sedimentation control plan.

SECTION 2. In developing the Minimum Design Criteria, the Department shall consult with a technical working group that consists of industry experts, environmental engineers or consultants, relevant faculty from The University of North Carolina, and other interested stakeholders. The Department shall submit its recommendations to the Environmental Review Commission no later than March 1, 2014.

SECTION 3. Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-214.7B. Fast-track permitting.

The Commission shall adopt rules implementing a fast-track permitting process allowing for issuance of stormwater management system permits without a technical review when the permit applicant (i) complies with the Minimum Design Criteria for stormwater management developed by the Department and (ii) submits a permit application sealed by a professional engineer."
SECTION 4. Article 4 of Chapter 113A of the General Statutes is amended by adding a new section to read:

§ 113A-68. Fast-track plan approval.

The Commission shall adopt rules implementing a fast-track plan approval process allowing for approval of erosion and sedimentation control plans by the Department or a local erosion and sedimentation control program without a technical review when the person files a plan that (i) complies with the Minimum Design Criteria for erosion and sedimentation control developed by the Department and (ii) is sealed by a professional engineer."

SECTION 5.(a) The Environmental Management Commission shall adopt rules implementing Section 3 of this act no later than February 1, 2014.

SECTION 5.(b) The Sedimentation Control Commission shall adopt rules implementing Section 4 of this act no later than February 1, 2014.

SECTION 6. This act is effective when it becomes law.
A BILL TO BE ENTITLED
AN ACT TO AMEND CERTAIN ENVIRONMENTAL AND NATURAL RESOURCES
LAWS TO (1) ALLOW 10-YEAR PHASE LANDFILL DEVELOPMENTS TO APPLY
FOR A PERMIT TO OPERATE; AND (2) CLARIFY THE PROCESS FOR APPEALS
FROM CIVIL PENALTIES ASSESSED BY A LOCAL GOVERNMENT THAT HAS
ESTABLISHED AND ADMINISTERS AN EROSION AND SEDIMENTATION
CONTROL PROGRAM APPROVED UNDER G.S. 113A-60 AND PROVIDE THAT
CIVIL PENALTIES ASSESSED BY A LOCAL GOVERNMENT PURSUANT TO THE
SEDIMENTATION POLLUTION CONTROL ACT OF 1973 SHALL BE REMITT
ED TO THE CIVIL PENALTY AND FORFEITURE FUND, AS RECOMMENDED BY THE
ENVIRONMENTAL REVIEW COMMISSION.

The General Assembly of North Carolina enacts:

SECTION 1. Section 15.1 of S.L. 2012-187 reads as rewritten:
"SECTION 15.1. No later than July 1, 2013, the Commission for Public Health shall adopt
rules to allow applicants for sanitary landfills the option to (i) apply for a permit to construct
and operate a five-year phase of landfill development and apply to amend the permit to
construct and operate subsequent five-year phases of landfill development; or (ii) apply for a
permit to construct and operate a 10-year phase of landfill development and apply to amend the
permit to construct and operate subsequent 10-year phases of landfill development, with a
limited review of the permit five years after issuance of the initial permit and five years after
issuance of each amendment for subsequent phases of development. No later than July 1, 2013,
the Commission shall also adopt rules to allow applicants for transfer stations the
option to (i) apply for a permit with a five-year duration to construct and operate a transfer
station; or (ii) apply for a permit with a 10-year duration to construct and operate a transfer
station, with a limited review of the permit five years after issuance of the initial permit and
five years after issuance of any amendment to the permit. In developing these rules, the
Department of Environment and Natural Resources shall examine the current fee schedule for
permits for sanitary landfills and transfer stations as set forth under G.S. 130A-295.8 and
formulate recommendations for adjustments to the current fee schedule sufficient to address
any additional demands associated with review of permits issued for 10-year phases of landfill
development and the issuance permits with a duration of up to 10 years for transfer stations.
The Department shall report its findings and recommendations, including any legislative
proposals, to the Environmental Review Commission on or before December 1, 2012. The rules
required by this section shall not become effective until the fee schedule set forth under
G.S. 130A-295.8 is amended as necessary to address any additional demands associated with review of permits issued for 10-year phases of landfill development and the issuance of permits with a duration of up to 10 years to construct and operate transfer stations."

SECTION 2. G.S. 113A-64 reads as rewritten:

"§ 113A-64. Penalties.

(a) Civil Penalties. –

(1) Any person who violates any of the provisions of this Article or any ordinance, rule, or order adopted or issued pursuant to this Article by the Commission or by a local government, or who initiates or continues a land-disturbing activity for which an erosion and sedimentation control plan is required except in accordance with the terms, conditions, and provisions of an approved plan, is subject to a civil penalty. The maximum civil penalty for a violation is five thousand dollars ($5,000). A civil penalty may be assessed from the date of the violation. Each day of a continuing violation shall constitute a separate violation.

(2) The Secretary or a local government that administers an erosion and sedimentation control program approved under G.S. 113A-60 shall determine the amount of the civil penalty and shall notify the person who is assessed the civil penalty of the amount of the penalty and the reason for assessing the penalty. The notice of assessment shall be served by any means authorized under G.S. 1A-1, Rule 4, and G.S. 1A-1. A notice of assessment by the Secretary shall direct the violator to either pay the assessment or contest the assessment within 30 days by filing a petition for a contested case under Article 3 of Chapter 150B of the General Statutes. If a violator does not pay a civil penalty assessed by the Secretary within 30 days after it is due, the Department shall request the Attorney General to institute a civil action to recover the amount of the assessment. A notice of assessment by a local government shall direct the violator to either pay the assessment or contest the assessment within 30 days by filing a petition for hearing with the local government as directed by procedures within the local ordinances or regulations adopted to establish and enforce the erosion and sedimentation control program. If a violator does not pay a civil penalty assessed by a local government within 30 days after it is due, the local government may institute a civil action to recover the amount of the assessment. The civil action may be brought in the superior court of any county where the violation occurred or the violator’s residence or principal place of business is located. A civil action must be filed within three years of the date the assessment was due.

An assessment that is not contested is due when the violator is served with a notice of assessment. An assessment that is contested is due at the conclusion of the administrative and judicial review of the assessment.

(3) In determining the amount of the penalty, the Secretary or a local government shall consider the degree and extent of harm caused by the violation, the cost of rectifying the damage, the amount of money the violator saved by noncompliance, whether the violation was committed willfully and the prior record of the violator in complying or failing to comply with this Article, Article, or any ordinance, rule, or order adopted or issued pursuant to this Article by the Commission or by a local government.

(4) Repealed by Session Laws 1993 (Reg. Sess., 1994), c. 776, s. 11.

(5) The clear proceeds of civil penalties collected by the Department or other State agency or a local government under this subsection shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.
Civil penalties collected by a local government under this subsection shall be credited to the general fund of the local government as nontax revenue.

(b) Criminal Penalties. – Any person who knowingly or willfully violates any provision of this Article or any ordinance, rule, regulation, or order duly adopted or issued by the Commission or a local government, or who knowingly or willfully initiates or continues a land-disturbing activity for which an erosion and sedimentation control plan is required, except in accordance with the terms, conditions, and provisions of an approved plan, shall be guilty of a Class 2 misdemeanor that may include a fine not to exceed five thousand dollars ($5,000).

SECTION 3. This act is effective when it becomes law.
A BILL TO BE ENTITLED
AN ACT TO PROVIDE REGULATORY RELIEF TO THE CITIZENS OF NORTH CAROLINA BY CREATING A FAST TRACK PERMITTING PROCESS FOR CERTAIN ENVIRONMENTAL PERMITS; BY CLARIFYING THE PREEMPTION OF CITY ORDINANCES AND CLARIFYING THAT SIMILAR RULES APPLY TO COUNTY ORDINANCES; BY CLARIFYING THE LAWS RELATING TO GROUNDWATER COMPLIANCE BOUNDARIES; BY EXTENDING THE TERMS OF CERTAIN ENVIRONMENTAL PERMITS; BY AMENDING THE ADMINISTRATIVE PROCEDURE ACT TO ELIMINATE THE REQUIREMENT THAT AN AGENCY PREPARE A FISCAL NOTE WHEN REPEALING A RULE; BY REQUIRING THE REPEAL OR REVISION OF EXISTING ENVIRONMENTAL RULES MORE RESTRICTIVE THAN FEDERAL RULES PERTAINING TO THE SAME SUBJECT MATTER; BY ALLOWING MUNICIPALITIES TO LEASE REAL PROPERTY FOR A TERM OF UP TO TWENTY-FIVE YEARS TO PRIVATE COMPANIES CONSTRUCTING RENEWABLE ENERGY FACILITIES; BY ALLOWING GOING-OUT-OF-BUSINESS SALE LICENSES TO BE ISSUED BY ANY MUNICIPAL OFFICIAL DESIGNATED BY THE GOVERNING BODY OF THE MUNICIPALITY; BY DIRECTING THE DEPARTMENT OF ENVIRONMENT AND NATURAL RESOURCES AND THE DEPARTMENT OF TRANSPORTATION TO JOINTLY PETITION THE WILMINGTON DISTRICT OF THE UNITED STATES ARMY CORPS OF ENGINEERS TO ALLOW FOR GREATER FLEXIBILITY AND OPPORTUNITY TO PERFORM WETLANDS MITIGATION BEYOND THE IMMEDIATE WATERSHED WHERE DEVELOPMENT WILL OCCUR; BY CLARIFYING THAT THE DEFINITION OF "BUILT-UPON AREA" INCLUDES ONLY IMPERVIOUS SURFACES; AND BY REQUIRING MEMBERS OF ADVISORY BODIES TO STATE AGENCIES AND BOARDS TO DISCLOSE POTENTIAL CONFLICTS OF INTEREST PRIOR TO MAKING ANY RECOMMENDATION.

The General Assembly of North Carolina enacts:

PART I. FAST-TRACK PERMITTING FOR CERTAIN ENVIRONMENTAL PERMITS

SECTION 1.1.(a) Stormwater. – The Department of Environment and Natural Resources shall develop Minimum Design Criteria for permits issued by the stormwater runoff permitting programs authorized by G.S. 143-214.7. The Minimum Design Criteria shall include
all requirements for siting, site preparation, design and construction, and post-construction monitoring and evaluation necessary for the Department to issue a stormwater permit.

SECTION 1.1.(b) Erosion and Sedimentation Control. – The Department of Environment and Natural Resources shall develop Minimum Design Criteria for erosion and sedimentation control plans issued by the Department and local governments under the authority of Article 4 of Chapter 113A of the General Statutes. The Minimum Design Criteria shall include all requirements for siting, site preparation, design and construction, and post-construction monitoring and evaluation necessary for the Department or a local government stormwater program to approve an erosion and sedimentation control plan.

SECTION 1.1.(c) Designation of Appropriate Professionals. – In the development of Minimum Design Criteria under this section, the Department shall specify types of licensed professionals qualified to certify the design, effectiveness, and appropriateness of each criterion. For purposes of this subsection, "licensed professionals" shall include, but not be limited to, engineers certified under Chapter 89C of the General Statutes, geologists certified under Chapter 89E of the General Statutes, and landscape architects certified under Chapter 89A of the General Statutes, and "qualified to certify" means, at a minimum, that the licensing board for that professional has the statutory authority to discipline the professional for falsely certifying design, effectiveness, or appropriateness of the particular criterion.

SECTION 1.2. Technical Working Group. – In developing the Minimum Design Criteria, the Department may consult with a technical working group that consists of industry experts, environmental engineers or consultants, relevant faculty from The University of North Carolina, and other interested stakeholders. The Department shall submit the final Minimum Design Criteria to the Environmental Review Commission no later than March 1, 2014.

SECTION 1.3. Article 21 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-214.7B. Fast-track permitting.

The Commission shall adopt rules implementing a fast-track permitting process allowing for issuance of stormwater management system permits without a technical review when the permit applicant (i) complies with the Minimum Design Criteria for stormwater management developed by the Department and (ii) submits a permit application sealed by the appropriate professional specified in the criteria."

SECTION 1.4. Article 4 of Chapter 113A of the General Statutes is amended by adding a new section to read:

"§ 113A-68. Fast-track plan approval.

The Commission shall adopt rules implementing a fast-track plan approval process allowing for approval of erosion and sedimentation control plans by the Department or a local government for the Department to issue a stormwater permit, without a technical review when the person files a plan that (i) complies with the Minimum Design Criteria for erosion and sedimentation control developed by the Department and (ii) is sealed by the appropriate professional specified in the criteria."

SECTION 1.5.(a) The Environmental Management Commission shall adopt temporary rules implementing Section 1.3 of this act no later than May 1, 2014. The temporary rules shall remain in effect until permanent rules that replace the temporary rules become effective.

SECTION 1.5.(b) The Sedimentation Control Commission shall adopt temporary rules implementing Section 1.4 of this act no later than May 1, 2014. The temporary rules shall remain in effect until permanent rules that replace the temporary rules become effective.

SECTION 1.6. G.S. 89C-19 reads as rewritten:

"§ 89C-19. Public works; requirements where public safety involved.

This State and its political subdivisions such as counties, cities, towns, or other political entities or legally constituted boards, commissions, public utility companies, or authorities, or
officials, or employees of these entities shall not engage in the practice of engineering or land
surveying involving either public or private property where the safety of the public is directly
involved without the project being under the supervision of a professional engineer for the
preparations of plans and specifications for engineering projects, or a professional land
surveyor for land surveying projects, as provided for the practice of the respective professions
by this Chapter. These entities shall not, in the course of conducting technical review of an
application for a permit or a plan submitted for approval by the entity, require revisions to that
part of the application or plan that constitutes the practice of engineering and that has been
supervised and sealed by a professional engineer unless the employee or official of the
reviewing entity requiring the revision is also a professional engineer or is an engineering
intern under the responsible charge of a professional engineer. Any revisions to the application
or plan that are required by the reviewing entity and that constitute the practice of engineering
shall be provided by written notice to the permit applicant or the person submitting a plan for
approval. The written notice shall be on agency letterhead and shall be signed by the
professional engineer reviewing or supervising the review of the submission and shall include
the engineer's state license number.

An official or employee of the State or any political subdivision specified in this section,
holding the positions set out in this section as of June 19, 1975, shall be exempt from the
provisions of this section so long as such official or employee is engaged in substantially the
same type of work as is involved in the present position.

Nothing in this section shall be construed to prohibit inspection, maintenance and service
work done by employees of the State of North Carolina, any political subdivision of the State,
or any municipality including construction, installation, servicing, and maintenance by regular
full-time employees of, secondary roads and drawings incidental to work on secondary roads,
streets, street lighting, traffic-control signals, police and fire alarm systems, waterworks, steam,
electric and sewage treatment and disposal plants, the services of superintendents, inspectors or
foremen regularly employed by the State of North Carolina or any political subdivision of the
State, or municipal corporation.

The provisions in this section shall not be construed to alter or modify the requirements of
Article 1 of Chapter 133 of the General Statutes."

SECTION 1.7. The Department of Environment and Natural Resources shall
identify other permitting programs for which the fast-track permitting process described by this
Part would be appropriate and make a report, including proposed legislation, to the
Environmental Review Commission no later than May 1, 2014.

PART II. CLARIFY LOCAL GOVERNMENT PREEMPTION

SECTION 2.1. G.S. 160A-174(b) reads as rewritten:

"(b) A city ordinance shall be consistent with the Constitution and laws of North
Carolina and of the United States. An ordinance is not consistent with State or federal law
when:

1. The ordinance infringes a liberty guaranteed to the people by the State or
   federal Constitution;
2. The ordinance makes unlawful an act, omission or condition which is
   expressly made lawful by State or federal law;
3. The ordinance makes lawful an act, omission, or condition which is
   expressly made unlawful by State or federal law;
4. The ordinance purports to regulate a subject that cities are expressly
   forbidden to regulate by State or federal law;
5. The ordinance purports to regulate a field for which a State or federal statute
   clearly shows a legislative intent to provide a complete and integrated
   regulatory scheme to the exclusion of local regulation;"
The ordinance (i) regulates a field that is also regulated by a State or federal statute enforced by, or a regulation promulgated by, an environmental agency; and (ii) is more stringent than the State or federal statute or regulation; or

The elements of an offense defined by a city ordinance are identical to the elements of an offense defined by State or federal law.

The fact that a State or federal law, standing alone, makes a given act, omission, or condition unlawful shall not preclude city ordinances requiring a higher standard of conduct or condition.

The limitation set forth in subdivision (5a) of subsection (b) of this section does not apply to any ordinance if adoption of the ordinance was and continues to be required by one of the following:

(1) A serious and unforeseen threat to the public health, safety, or welfare.
(2) An act of the General Assembly or United States Congress that expressly requires the city to adopt an ordinance.
(3) A provision in federal or State budgetary policy.
(4) A federal regulation required by an act of the United States Congress to be adopted or administered by the State.
(5) A court order.

For purposes of this section, "an environmental agency" means any of the following:

(1) The Department of Environment and Natural Resources created pursuant to G.S. 143B-279.1.
(2) The Environmental Management Commission created pursuant to G.S. 143B-282.
(3) The Coastal Resources Commission established pursuant to G.S. 113A-104.
(4) The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.
(5) The Wildlife Resources Commission created pursuant to G.S. 143-240.
(6) The Commission for Public Health created pursuant to G.S. 130A-29, when regulating pursuant to the authority granted by Articles 9, 10, 11, 19, 19A, and 19B of Chapter 130A of the General Statutes.
(7) The Sedimentation Control Commission created pursuant to G.S. 143B-298.
(8) The Mining and Energy Commission created pursuant to G.S. 143B-293.1.
(9) The Pesticide Board created pursuant to G.S. 143-436.

A county ordinance shall be consistent with the Constitution and laws of North Carolina and of the United States. An ordinance is not consistent with State or federal law when:

(1) The ordinance infringes a liberty guaranteed to the people by the State or federal Constitution;
(2) The ordinance makes unlawful an act, omission, or condition which is expressly made lawful by State or federal law;
(3) The ordinance makes lawful an act, omission, or condition which is expressly made unlawful by State or federal law;
(4) The ordinance purports to regulate a subject that counties are expressly forbidden to regulate by State or federal law;
(5) The ordinance purports to regulate a field for which a State or federal statute clearly shows a legislative intent to provide a complete and integrated regulatory scheme to the exclusion of local regulation;
(6) The ordinance (i) regulates a field that is also regulated by a State or federal statute enforced by, or a regulation promulgated by, an environmental agency; and (ii) is more stringent than the State or federal statute or regulation; or
The elements of an offense defined by a county ordinance are identical to the elements of an offense defined by State or federal law.

The fact that a State or federal law, standing alone, makes a given act, omission, or condition unlawful shall not preclude county ordinances requiring a higher standard of conduct or condition.

(a2) The limitation set forth in subdivision (6) of subsection (a1) of this section does not apply to any ordinance if adoption of the ordinance was and continues to be required by one of the following:

1. A serious and unforeseen threat to the public health, safety, or welfare.
2. An act of the General Assembly or United States Congress that expressly requires the county to adopt an ordinance.
3. A provision in federal or State budgetary policy.
4. A federal regulation required by an act of the United States Congress to be adopted or administered by the State.
5. A court order.

(a3) For purposes of this section, "an environmental agency" means any of the following:

1. The Department of Environment and Natural Resources created pursuant to G.S. 143B-279.1.
2. The Environmental Management Commission created pursuant to G.S. 143B-282.
3. The Coastal Resources Commission established pursuant to G.S. 113A-104.
4. The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.
5. The Wildlife Resources Commission created pursuant to G.S. 143-240.
6. The Commission for Public Health created pursuant to G.S. 130A-29, when regulating pursuant to the authority granted by Articles 9, 10, 11, 19, 19A, and 19B of Chapter 130A of the General Statutes.
7. The Sedimentation Control Commission created pursuant to G.S. 143B-298.
8. The Mining and Energy Commission created pursuant to G.S. 143B-293.1.
9. The Pesticide Board created pursuant to G.S. 143-436.

PART III. ENVIRONMENTAL REGULATORY REFORM

SECTION 3.2.(a) G.S. 143-215.1 is amended by adding three new subsections to read:

"§ 143-215.1. Control of sources of water pollution; permits required.

..."

(i) Any person subject to the requirements of this section who is required to obtain an individual permit from the Commission for a disposal system under the authority of G.S. 143-215.1 or Chapter 130A of the General Statutes shall have a compliance boundary as may be established by rule or permit for various categories of disposal systems and beyond which groundwater quality standards may not be exceeded. The location of the compliance boundary shall be established at the property boundary, except as otherwise established by the Commission. Multiple contiguous properties under common ownership and permitted for use as a disposal system shall be treated as a single property with regard to determination of a compliance boundary under this subsection. Nothing in this subsection shall be interpreted to require a revision to an existing compliance boundary previously approved by rule or permit.

(j) When operation of a disposal system permitted under this section results in an exceedance of the groundwater quality standards adopted in accordance with G.S. 143-214.1, the Commission shall require that the exceedances within the compliance boundary be remedied through clean-up, recovery, containment, or other response only when any of the following conditions occur:
(1) A violation of any water quality standard in adjoining classified waters of the State occurs or can be reasonably predicted to occur considering hydrogeological conditions, modeling, or any other available evidence.

(2) An imminent hazard or threat to the environment, public health, or safety exists.

(3) A violation of any standard in groundwater occurring in the bedrock other than limestones found in the Coastal Plain sediments, unless it can be demonstrated that the violation will not adversely affect, or have the potential to adversely affect, a water supply well.

(k) Where operation of a disposal system permitted under this section results in exceedances of the groundwater quality standards at or beyond the compliance boundary established under subsection (i) of this section, exceedances shall be remedied through clean-up, recovery, containment, or other response as directed by the Commission.

SECTION 3.2.(b) With respect to exceedances of groundwater quality standards within a compliance boundary and related remedy requirements, G.S. 143-215.1(j) as set forth in Section 3.1(a) of this act shall apply in lieu of the restricted designation directives found in 15A NCAC 2L .0104(d) and (e) until the Department of Environment and Natural Resources has adopted revisions to those rules to comply with this act.

SECTION 3.3.(a) G.S. 143-215.1 reads as rewritten:

"§ 143-215.1. Control of sources of water pollution; permits required.
(d2) No permit issued pursuant to subsection (c) of this section shall be issued or renewed for a term exceeding five years. All other permits issued pursuant to this section for which an expiration date is specified shall be issued for a term not to exceed eight years.
(e) Administrative Review. – A permit applicant or permittee applicant, a permittee, or a third party who is dissatisfied with a decision of the Commission may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission notifies the applicant or permittee of its decision. If the permit applicant or permittee does not file a petition within the required time, the Commission's decision is final and is not subject to review.

SECTION 3.3.(b) G.S. 143-215.108 reads as rewritten:

"§ 143-215.108. Control of sources of air pollution; permits required.
(d1) No Title V permit issued pursuant to this section shall be issued or renewed for a term exceeding five years. All other permits issued pursuant to this section shall be issued for a term not to exceed eight years.
(e) A permit applicant or permittee applicant, a permittee, or a third party who is dissatisfied with a decision of the Commission may commence a contested case by filing a petition under G.S. 150B-23 within 30 days after the Commission notifies the applicant or permittee of its decision. If the permit applicant or permittee does not file a petition within the required time, the Commission's decision on the application is final and is not subject to review.

SECTION 3.4.(a) Section 2 of S.L. 2006-246 reads as rewritten:

"SECTION 2. Definitions. – The following definitions apply to this act and its implementation:
(7) "Built-upon area" means that portion of a project that is covered by impervious or partially impervious surface including, but not limited to, buildings; pavement and gravel areas such as roads, parking lots, and paths; and recreation facilities such as tennis courts.
"Built-upon area" does not include a wooden slatted deck, the water area of a swimming pool, gravel, or pervious or partially pervious paving material to the extent that the paving material absorbs water or allows water to infiltrate through the paving material.

SECTION 3.4.(b) The Department shall adopt rules to implement this Section. Until permanent rules to implement subsection (a) of this section take effect, the definition of "built-upon area" in subsection (a) shall apply instead of any other definition of "built-upon area" appearing in rules adopted pursuant to Session Law 2006-246.

PART IV. NO FISCAL NOTE FOR RULE REPEAL

SECTION 4.1. G.S. 150B-21.4 is amended by adding a new subsection to read: "(d) If an agency proposes the repeal of an existing rule, the agency is not required to prepare a fiscal note on the proposed rule change as provided by this section."

PART VI. REFORM OF EXISTING RULES

SECTION 6.1.(a) Definitions. – For purposes of this section, "an agency authorized to implement and enforce State and federal environmental laws" means any of the following:

1. The Department of Environment and Natural Resources created pursuant to G.S. 143B-279.1.
2. The Environmental Management Commission created pursuant to G.S. 143B-282.
3. The Coastal Resources Commission established pursuant to G.S. 113A-104.
4. The Marine Fisheries Commission created pursuant to G.S. 143B-289.51.
5. The Wildlife Resources Commission created pursuant to G.S. 143-240.
6. The Commission for Public Health created pursuant to G.S. 130A-29.
7. The Sedimentation Control Commission created pursuant to G.S. 143B-298.
8. The Mining and Energy Commission created pursuant to G.S. 143B-293.1.
9. The Pesticide Board created pursuant to G.S. 143-436.

SECTION 6.1.(b) An agency authorized to implement and enforce State and federal environmental laws shall identify all existing rules for the protection of the environment or natural resources that impose a more restrictive standard, limitation, or requirement than those imposed by federal law or rule, if a federal law or rule pertaining to the same subject matter has been adopted.

SECTION 6.1.(c) No later than September 1, 2013, agencies identifying rules under subsection (b) of this section shall initiate rule–making proceedings to (i) repeal the rules; or (ii) rewrite the rules to make them no more restrictive than the corresponding federal laws or rules. Rules adopted pursuant to this subsection are not subject to G.S. 150B-21.9 through G.S. 150B-21.14.

SECTION 6.1.(d). The rule–making proceedings required by subsection (c) of this section are not required for any rule identified under subsection (b) of this section if adoption of the rule was and continues to be required by one of the following:

1. A serious and unforeseen threat to the public health, safety, or welfare.
2. An act of the General Assembly or United States Congress that expressly requires the agency to adopt rules.
3. A provision in federal or State budgetary policy.
4. A federal regulation required by an act of the United States Congress to be adopted or administered by the State.
5. A court order.
PART VII. PERMIT LONGER ALTERNATE ENERGY LEASING PERIODS

SECTION 7.(a) G.S. 160A-272 reads as rewritten:

"§ 160A-272. Lease or rental of property.

..."

(c) The council may approve a lease for the siting and operation of a renewable energy facility, as that term is defined in G.S. 62-133.8(a)(7), for a term up to 20–25 years without treating the lease as a sale of property and without giving notice by publication of the intended lease. This subsection applies to Catawba, Mecklenburg, and Wake Counties, the Cities of Asheville, Raleigh, and Winston-Salem, and the Towns of Apex, Carrboro, Cary, Chapel Hill, Fuquay Varina, Garner, Holly Springs, Knightdale, Morrisville, Rolesville, Wake Forest, Wendell, and Zebulon only.

SECTION 7.(b) Section 3 of S.L. 2010-57 reads as rewritten:

"SECTION 3. This act is effective when it becomes law and but Section 1 expires June 30, 2015."

PART VIII. GOING-OUT-OF-BUSINESS SALE LICENSING FLEXIBILITY

SECTION 8. G.S. 66-77 reads as rewritten:

"§ 66-77. License required; contents of applications; inventory required; fees; bond; extension of licenses; records; false statements.

(a) No person shall advertise or offer for sale a stock of goods, wares or merchandise under the description of closing-out sale, or a sale of goods, wares or merchandise damaged by fire, smoke, water or otherwise, or a distress sale unless he shall have obtained a license to conduct such sale from the clerk of the officer designated by the governing board of the city or town in which he proposes to conduct such a sale or from the officer designated by the Board of County Commissioners if the sale is conducted in an unincorporated area. The applicant for such a license shall make to the designated officer an application therefor, in writing and under oath at least seven days prior to the opening date of sale, showing all the facts relating to the reasons and character of such sale, including the opening and terminating dates of the proposed sale, the opening and terminating dates of any previous distress sale or closing-out sale held by the applicant within that county during the preceding 12 months, a complete inventory of the goods, wares or merchandise actually on hand in the place where the sale is to be conducted, and all details necessary to locate exactly and identify fully the goods, wares or merchandise to be sold. Provided, the seller in a distress sale need not file an inventory.

(b) If the clerk, the designated officer shall be satisfied from said application that the proposed sale is of the character which the applicant desires to advertise and conduct, the clerk designated officer shall issue a license, upon the payment of a fee of fifty dollars ($50.00) therefor, together with a bond, payable to the city or town or county in the penal sum of five hundred dollars ($500.00), conditioned upon compliance with this Article, to the applicant authorizing him to advertise and conduct a sale of the particular kind mentioned in the application. The license fee provided for herein shall be good for a period of 30 days from its date, and if the applicant shall not complete said sale within said 30-day period then the applicant shall make application to the clerk, the designated officer for a license for a new permit, which shall be good for an additional period of 30 days, and shall pay therefor the sum of fifty dollars ($50.00), and a second extension period of 30 days may be similarly applied for and granted by the clerk designated officer upon payment of an additional fee of fifty dollars ($50.00) and upon the clerk designated officer being satisfied that the applicant is holding a bona fide sale of the kind contemplated by this Article and is acting in a bona fide manner; provided, however, that the clerk designated officer may not grant an extension period as provided in this subsection if (i) the applicant conducted a distress sale immediately preceding the current sale for which the extension is applied for and (ii) the period of the extension..."
applied for, when added to the period of the preceding sale and the period of the current sale, will exceed 120 days. No additional bond shall be required in the event of one or more extensions as herein provided for. Any merchant who shall have been conducting a business in the same location where the sale is to be held for a period of not less than one year, prior to the date of holding such sale, or any merchant who shall have been conducting a business in one location for such period but who shall, by reason of the building being untenantable or by reason of the fact that said merchant shall have no existing lease or ownership of the building and shall be forced to hold such sale at another location, shall be exempted from the payment of the fees and the filing of the bond herein provided for.

"....."

PART IX. WETLANDS AND STREAM MITIGATION HUC FLEXIBILITY

SECTION 9.1. No later than October 1, 2013, the Department of Environment and Natural Resources and the Department of Transportation shall jointly petition the Wilmington District of the United States Army Corps of Engineers (Wilmington District) to allow for greater flexibility and opportunity to perform wetlands and stream mitigation outside of the eight-digit Hydrologic Unit Code (HUC) where development will occur. The Departments shall seek this greater flexibility and opportunity for mitigation for both public and private development. The Departments shall request that the Wilmington District review the flexibility and opportunities for mitigation allowed by other Districts of the United States Army Corps of Engineers.

SECTION 9.2. The Departments shall jointly report on their progress in petitioning the Wilmington District as required by Section 9.1 of this act to the Environmental Review Commission no later than January 1, 2014.

PART X. ETHICS/ADVISORY BOARDS

SECTION 10. G.S. 138A-15 is amended by adding a new subsection to read:


(i) Before receiving or accepting any recommendation, the head of each State agency, including the chair of each board subject to this Chapter, shall require each member of an advisory body appointed or created by the State to serve that State agency or board, or appointed or created by the State agency or board subject to this Chapter, to disclose all reasonably foreseeable financial benefits from the matter under recommendation, which financial benefit would impair the member of the advisory body's independence of judgment or from which it could reasonably be inferred that the financial benefit would influence the member of the advisory body's participation in the advisory body. Each member of an advisory body appointed or created by a State agency or board subject to this Chapter shall also provide to that State agency or board subject to this Chapter a list of all grants or employment pertaining to the matter under recommendation held or awarded within the previous 24 months before the recommendation and a copy of any deliverable associated with such grants."

PART XI. SEVERABILITY AND EFFECTIVE DATE PROVISIONS

SECTION 11.1. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of this act as a whole or any part other than the part so declared to be unconstitutional or invalid.

SECTION 11.2. Sections 3.1 and 10 of this act become effective July 1, 2013. Section 4.1 of this act is effective when it becomes law and applies to all proposed rules published in the North Carolina Register on or after that date. Except as otherwise provided, the remainder of this act is effective when it becomes law.